

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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**WILLIAM DAMON AVERY,**

Plaintiff,

vs.

**CITY OF MILWAUKEE, et.al.,**

Defendants.

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Case No. 11-CV-408

Milwaukee, Wisconsin

June 9, 2015

**VOLUME 7 - PAGE 1075**  
TRANSCRIPT OF TRIAL  
BEFORE THE **HONORABLE RUDOLPH T. RANDA,**  
UNITED STATES DISTRICT JUDGE, AND A JURY

**A P P E A R A N C E S**

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**TRANSCRIPT OF PROCEEDINGS**

1  
2 THE CLERK: Case Number 11-C-408, William Damon Avery  
3 vs. The City of Milwaukee, et.al. Called for continuation of  
4 the jury trial. May I have the appearances, please. First for  
5 the Plaintiff.

6 MS. HOFT: Good morning. Janine Hoft for the  
7 Plaintiff.

8 THE COURT: Good morning.

9 MR. STAINTHORP: John Stainthorp for the Plaintiff.

10 THE COURT: Good morning.

11 MR. ELSON: Good morning, Judge. Ben Elson for the  
12 Plaintiff.

13 THE COURT: Good morning.

14 THE CLERK: And for the Defendant?

15 MR. SMOKOWICZ: Assistant City Attorney Jan Smokowicz.  
16 Good morning, Your Honor.

17 THE COURT: Good morning.

18 MS. YUAN: Good morning, Your Honor. Assistant City  
19 Attorney Jenny Yuan for the Defendants.

20 THE COURT: Good morning. The Bailiff informs me we  
21 have a couple matters to take up before the jury comes in?

22 MR. SMOKOWICZ: Briefly, Your Honor. With respect to  
23 two documents that had been either offered or admitted  
24 previously, but we wanted to make a record of it. The C-CAP  
25 record relating to State vs. Antron Kent, which I believe was

1 offered yesterday to the Court for judicial notice purposes.  
2 Wasn't, I suppose, formally offered as an Exhibit. I'm doing  
3 that now. It has been marked as Exhibit 1055.

4 THE COURT: Okay. The Court has already received it.

5 MR. SMOKOWICZ: With respect to the one page statement  
6 from -- or report, rather, from Detective -- then Detective  
7 Kevin Armbruster relating to contact with Amanda Washington,  
8 that was among the materials that was part of Exhibit 12 from  
9 the Plaintiffs. That one page has been removed from their  
10 Exhibit book. It's now been marked as Plaintiff's Exhibit 12-A.  
11 I wanted to offer that -- indicate that for the record. And if  
12 that has not been offered, I would want to offer that as well.

13 THE COURT: Okay. There's no objection to that?

14 MR. STAINTHORP: What Exhibit is that?

15 MR. SMOKOWICZ: 12-A, as in Albert.

16 MR. STAINTHORP: Okay.

17 MR. SMOKOWICZ: It was part of Exhibit 12.  
18 Plaintiff's.

19 THE COURT: All right. So we're ready for the jury?

20 MS. YUAN: Yes, Your Honor.

21 THE COURT: Okay.

22 (Whereupon the jury was returned to the courtroom at  
23 9:13 a.m.)

24 THE COURT: Good morning, ladies and gentlemen of the  
25 jury. We left off with the Defendant's redirect, and we'll pick

1 it up at that point. Miss Yuan?

2 AGENT GILBERT HERNANDEZ, re-called as a witness,  
3 having been previously sworn, on oath testified as follows:

4 REDIRECT EXAMINATION

5 **BY MS. YUAN:**

6 Q. Good morning, Special Agent Hernandez.

7 A. Good morning to you.

8 Q. I want to start off with -- I had objected at one point  
9 during your cross examination about wanting to read in another  
10 portion of your deposition transcript, which I'm going to do  
11 now. My argument then was for completeness sake. And just to  
12 refresh your recollection, yesterday you were read in a portion  
13 from your deposition that was taken on July 23rd, 2012, Page 73,  
14 lines 12 to 18. And the question starts with: Okay. Apart  
15 from what's in the reports, do you have an independent  
16 recollection of any of your interviews with Mr. Avery? The  
17 answer: No, I don't. Question: Okay. So your recollection of  
18 those interviews are limited to what's in the written report?  
19 Answer: That's correct.

20 And the other portion that I'd like to read in starts  
21 on Page 79 of your deposition. So just a few pages further on,  
22 lines 5 to 15. The question begins: Okay. Do you recall your  
23 interview of Mr. Avery and Detective Phillips on March 24th,  
24 1998? Answer: I kind of do, yes. Question: Okay. What do  
25 you recall about this interview? Answer: I recall that

1 Mr. Avery became emotional and -- Question: What do you mean by  
2 become emotional? Answer, like sorry or upset with himself.

3 Question: Was he crying? Answer: I knew he was up -- he was  
4 emotional. As far as not crying crying, but you could tell he  
5 was upset at himself.

6 Special Agent Hernandez, you were asked a few  
7 questions yesterday as well regarding your reports. The -- both  
8 the typewritten report and the handwritten report. The  
9 handwritten report that you actually wrote out memorializing  
10 your interview with Mr. Avery while you were there with Mr. --  
11 with Detective Phillips. And then you were also asked questions  
12 about the report that was dictated memorializing that interview.  
13 Do you recall those questions?

14 A. Yes.

15 Q. From yesterday?

16 A. Yes, I do.

17 Q. And specifically you were asked questions from Attorney  
18 Stainthorp regarding whether or not either one -- either the  
19 handwritten report that you wrote, or the typewritten report,  
20 contained a statement that Mr. Avery terminated the interview.  
21 Or words to that effect. Do you recall that?

22 A. Yes.

23 Q. And do you recall that you -- you testified after reviewing  
24 both the handwritten report and the typewritten report that  
25 those words were not contained in either report?

1 A. That's correct.

2 Q. Okay. I just want to show you -- and I know you were shown  
3 this yesterday, but this is again defense Exhibit 1032, which is  
4 a copy of your typewritten report. And going to the second  
5 page, I just want to direct your attention to first this first  
6 full paragraph here. And really to the last sentence of that  
7 first full paragraph. Can you read that into the record,  
8 please? Starting with "he"?

9 A. He at this time indicated that he was not interested in  
10 signing anything and I, Detective Hernandez, concluded my  
11 interview.

12 Q. And actually I guess for it to make more sense -- and I  
13 apologize. Let's actually read the whole paragraph. I think  
14 that would make more sense. You could start with "it should  
15 be".

16 A. It should be noted that I, Detective Hernandez, while  
17 conducting this interview in the presence of Detective Dan  
18 Phillips, advised this subject that I would now attempt to take  
19 this summary of the subject's account and attempt to reduce it  
20 to a written report. He at this time indicated that he was not  
21 interested in signing anything and I, Detective Hernandez,  
22 concluded my interview.

23 Q. So why would you put that portion of the paragraph in your  
24 written report? What does that signify?

25 A. He indicated that he didn't wish to sign anything. That he

1 didn't want to basically talk anymore, and at that point I  
2 concluded my interview.

3 Q. And then further down let's read this last paragraph. The  
4 last paragraph of the report, please. During my interview.  
5 Beginning with that.

6 A. During my interview Mr. Avery was offered numerous  
7 cigarettes, along with black coffee. He indicated that he also  
8 did have some soda and a baloney sandwich, period. At that time  
9 I, Detective Hernandez, did reduce Mr. Avery's interview to  
10 writing, and upon asking him to sign it he did indicate that he  
11 rather not, and I at this time concluded this interview.

12 Q. And Mr. Hernandez, you were asked a lot of questions about  
13 whether or not you actually put in the report the fact that Mr.  
14 Avery said I want to terminate this report, or I want to stop  
15 talking. And we've gone over the report, and that's -- those  
16 words aren't there, is that correct?

17 A. That is correct.

18 Q. But you did indicate that Mr. Avery didn't want to sign the  
19 report?

20 A. He didn't want to sign the report. At that point he didn't  
21 want to talk, either. He says I don't want to sign it, and I  
22 don't want to talk. So at that point I wrote the report out and  
23 again asked him if he wanted to sign it, and he again refused to  
24 sign anything and we were done.

25 Q. And you did write the report out. And I will show you what



1 has been marked as defense Exhibit 1030, this handwritten one  
2 page report. You did write that out while Mr. Avery was still  
3 in the interview room?

4 A. In his presence, yes.

5 Q. In his presence. And, in fact, Mr. Avery's signature is on  
6 the report just only after the Constitutional rights. That  
7 section where it indicates that his Constitutional rights were  
8 read?

9 A. That is correct.

10 Q. And what is your practice in your experience as a homicide  
11 Detective in writing out statements for suspects? In terms of  
12 once you're done with the statement, what is your practice?

13 A. I read it back to them, and -- I read it to them and they  
14 follow along. I ask them to follow along because if there's any  
15 corrections, I want them to make the corrections in front of me  
16 so we can initial it and show that there was a change on that  
17 report, and that he was aware of it by putting his initials on  
18 there.

19 Q. If the suspect does not want to make any initials, even if  
20 there's some changes that they say oh, you've got to make this  
21 change or that change, can you do anything about that?

22 A. No, I cannot.

23 Q. Can you force them to put their initials down?

24 A. No. No, I wouldn't do that.

25 Q. I just want to ask -- since as you were asked a lot of

1 questions, and I know during your answers yesterday there were  
2 some things that you just didn't recall. Can you tell the  
3 jury -- explain to the jury, back in 1998 when this homicide  
4 occurred, approximately how many homicides, if you recall,  
5 occurred in 1998 in the City of Milwaukee?

6 MR. STAINTHORP: Judge, this is beyond the scope of my  
7 examination.

8 THE COURT: Yeah, and I think it's already in the  
9 record.

10 MS. YUAN: Okay.

11 THE COURT: This witness and other witnesses.

12 MS. YUAN: Okay. I'll move on.

13 Q. Do you recall how many homicides -- how many homicide  
14 investigations you were working on back in 1998?

15 A. Well, basically there were three shifts of Detectives. And  
16 as these homicides came in, initially we would all work on them.  
17 And at times they would be coming in like one every 2 or 3 days.  
18 So you have a new homicide. You've got to start working it.  
19 It's very important to start investigating these homicides as  
20 soon as possible, because the sooner that you do get on them,  
21 there's a solve-ability -- the solve-ability factor is higher.  
22 The longer you wait -- the longer you wait, you may have a  
23 problem locating witnesses, and it makes it more difficult. So  
24 along with Maryetta Griffin's homicide, we were also working  
25 other homicides.

1 Q. Do you recall a number at this point? How many you were  
2 working on back in 1998?

3 A. I know that for the year we would probably be up like in  
4 around 70's or the 80th in homicide rates, victims. So we -- I  
5 couldn't tell you exactly how many at one time I was working,  
6 but it was multiple cases.

7 Q. Multiple cases at the same time?

8 A. Yes.

9 Q. And that's just what occurred in 1998. Are there also cold  
10 cases that were still needing to be investigated back in 1998?

11 A. That's correct. There are cold cases.

12 Q. Did you have a Cold Case Unit back at that time?

13 A. No, we did not.

14 Q. So how did -- how were cold cases investigated back in 1998?

15 A. Basically what would happen was the -- let's say there was a  
16 case sitting there for 2 or 3 years. Your supervisor will say  
17 here, you take this one, you take this one, and work on those.  
18 And so I would have like maybe 1 or 2 homicide cold cases that I  
19 would work on along with the new ones that were coming in. And  
20 that responsibility was shared by everybody, as far as --  
21 everybody was assigned like 2 or 3 cases to work on.

22 Q. Would that be 2 or 3 cold cases to work on?

23 A. Yes.

24 Q. In addition to the active homicides that had just occurred?

25 A. Yes. Yes.

1 Q. And that would be true then, for 1999, 2000, until you went  
2 to the Cold Case Unit?

3 A. That is correct.

4 Q. Can you estimate for the jury how many homicides, then, you  
5 were working on before you retired from the Milwaukee Police  
6 Department? From 1998 until you retired?

7 A. Hundreds.

8 Q. Hundreds?

9 A. Yes.

10 Q. Special Agent Hernandez, I'm going to show you what's been  
11 marked as Plaintiff's Exhibit 1. I don't know that you've been  
12 shown this before. Do you recognize this document, though?

13 A. The what? I'm sorry?

14 Q. Do you recognize this document?

15 A. Yes. It's a Criminal Complaint listing Walter Ellis.

16 Q. I'm just going to flip to the last page so it helps. Do you  
17 see the date when this document was signed?

18 A. This Complaint was signed September 10th of 2009.

19 Q. And who is the complaining witness?

20 A. My partner, Detective Kathy Hein.

21 Q. And that's your former partner?

22 A. Yes.

23 Q. Okay. So again, showing you the first page. You can see  
24 that there is four counts on this first page. I don't know if  
25 you can see that bottom part here. So I'm showing you the

1 bottom, Count 4?

2 A. Yes, I see four counts.

3 Q. Okay. And looks like those are four counts of first degree  
4 intentional homicide, is that right?

5 A. That's correct.

6 Q. Do you recall reviewing this document?

7 A. Oh, I reviewed it, yes.

8 Q. Prior to it being filed back in 2009?

9 A. I reviewed it, yes, I did.

10 Q. You did. And again -- and the Defendant in this case is  
11 Walter Ellis, is that right?

12 A. That's correct.

13 Q. And I know you -- I just want to make sure I know what you  
14 remember. Do you recall that at some point Walter Ellis was  
15 charged with 7 homicides as it related to the D.N.A. testing  
16 that was eventually performed?

17 A. That's correct.

18 Q. Do you remember after your investigative work identified  
19 Walter Ellis, and his D.N.A. was collected, and once all those  
20 links of those -- of his D.N.A. to the unsolved homicides of  
21 these other female victims was identified, do you recall if  
22 there was additional investigative work that you performed on  
23 any of those other unsolved homicides once it was linked to  
24 Walter Ellis's D.N.A.?

25 A. The ones that are --

1 MR. STAINTHORP: Excuse me. Object to form. I don't  
2 understand the question.

3 MS. YUAN: I can ask the question again.

4 THE COURT: Did he work on the unsolved murders after  
5 the D.N.A. was analyzed?

6 MS. YUAN: Yes. That's my question.

7 THE COURT: And after Walter Ellis was charged in the  
8 7.

9 MR. STAINTHORP: The question is in addition to the 7  
10 charged?

11 THE COURT: Yes. That's the way I understood it. Is  
12 that correct?

13 MS. YUAN:

14 Q. My question is after the D.N.A. of Walter Ellis was  
15 identified and linked to the various women, was there -- if  
16 Special Agent Hernandez recalls doing any additional  
17 investigation on those particular cases that were linked to  
18 Walter Ellis?

19 A. Yes, yes, there was. That's about the time when these --  
20 when -- when these were all linked together, and we were --  
21 myself and Katherine, Detective Hein, were in a panic. Because  
22 we gotta do something here. This is bigger than both of us.  
23 It's just two of us. And we went to our Captain and we went  
24 to -- eventually they ended up giving us a larger room. They  
25 gave us like three more Detectives. I believe there were three

1 at that time. And we also sought out the help from the D.A.'s  
2 Office. The F.B.I. came on board. We actually started a  
3 hotline, if you would, where we put out a newscast or a hotline  
4 number. If anybody had information, to please call us. And  
5 that generated thousands of potential names that we were going  
6 through.

7 We were also checking the -- continuously checking  
8 the -- we would pull out one folder, and let's determine if  
9 there was any evidence as far as can -- that can go out to the  
10 Crime Lab. And that was also a large amount. I'm talking  
11 hundreds of cases. We also got involved with what's called --  
12 how do I describe it to you? It was basically a large -- a  
13 database. But we would have to put names in so we could like  
14 almost cross -- that individual checked out. That individual  
15 was checked off. So a lot of this took a lot of time to set up.  
16 And also again, there was -- maybe now there's 5 of us that are  
17 doing this work. The F.B.I. subsequently came in and suggested  
18 a couple things for us. The D.A.'s Office was there also. And  
19 also at that time the Department of Justice was called in. And  
20 we were all trying to -- well, they did. Everybody was able to  
21 help out in some way with equipment that could make our job be  
22 faster, more efficient. And so there was a lot of work.

23 Q. And you were mentioning sending things out. Do you mean  
24 that after Walter Ellis's D.N.A. was linked to some of these  
25 unsolved homicides, that you were trying to send out other

1 biological materials to be tested in other unsolved matters?

2 A. In the unsolved homicides, yes.

3 Q. That's what you meant?

4 A. That's what I meant. Going back as far as 10, 20 years.

5 Just going back, trying to get the stuff out to the Crime Lab.

6 Q. So you were going through multiple cold cases and sending  
7 out if there was biological material available?

8 A. Right. And plus we had the regular cold cases where Walter  
9 Ellis wasn't involved that we were also concentrating on.

10 Q. So what you're describing really, if I understand correctly,  
11 is after Walter Ellis's identity was known, that you were really  
12 investigating Walter Ellis and his other possible victims, is  
13 that right?

14 A. Yes.

15 Q. Did you remember trying to question Walter Ellis about the  
16 homicides where he was linked to?

17 A. I remember talking with Walter Ellis.

18 Q. Would he talk to you?

19 A. He basically indicated that he wanted a lawyer, so I wasn't  
20 able to proceed later on.

21 Q. So do you remember if you were by yourself? Or were you  
22 with a partner at that point?

23 A. It would have been with Detective Katherine Hein.

24 Q. And when -- what happened when Mr. -- maybe you said this.

25 When Walter Ellis said he wanted a lawyer, what happened at that



1 point?

2 A. Well, then we continued on the investigation. Making a  
3 stronger case. Seeing if there was anymore cases that were  
4 involved.

5 Q. And that just involved, again, sending out biological  
6 material to the State Crime Lab to be tested, right?

7 A. Right.

8 Q. What would happen to your interview with him once he asked  
9 for a lawyer?

10 A. I had some contact with him in the -- we ended up getting a  
11 search warrant of his cell -- I believe it was his cell. But I  
12 had a conversation with him where he indicated to me that one  
13 day I'll tell you everything, Gilbert. And I never had that  
14 opportunity, because he passed when he was in prison.

15 Q. And just to refresh your recollection, I'm going to show you  
16 Page 56 of your deposition, lines 22 to 25.

17 A. Do you want me to read this?

18 Q. No. Just read it to yourself, please.

19 MR. STAINTHORP: Well, I object, Judge. He said he  
20 had a recollection. He just testified in the same manner that  
21 he testified in the deposition.

22 MS. YUAN: I think there's something that's added to  
23 that at the end.

24 THE COURT: What's the objection?

25 MR. STAINTHORP: I'll withdraw. Go ahead.

1 THE COURT: Okay.

2 MS. YUAN:

3 Q. Does that refresh your recollection as to what -- the full  
4 statement of what Walter Ellis may have said to you when you  
5 tried to talk to him?

6 A. Yes.

7 Q. And what is that?

8 A. That he did indicate some day I'll tell you -- I'll tell  
9 you -- I'll tell you everything.

10 Q. But that he wanted a lawyer?

11 A. But that he wanted a lawyer, yes.

12 Q. Special Agent Hernandez, you were asked a number of  
13 questions yesterday as well during your cross examination as to  
14 whether or not you personally did any additional investigation  
15 into the Griffin homicide after the 2010 D.N.A. report linking  
16 Walter Ellis to the biological material found on the oral swab  
17 from Maryetta Griffin. Do you recall that?

18 A. Yes, I recall that.

19 Q. Is it possible that other Detectives performed additional  
20 investigation into the Griffin homicide after Walter Ellis's  
21 D.N.A. was linked to the biological material found on her?

22 A. It's possible, yes.

23 Q. I don't want you to read that out loud, but I'm handing you  
24 a report and ask that you review it and see if you can -- then I  
25 want to ask you some questions about that.

1 MR. STAINTHORP: I ask counsel if you can just  
2 identify the date of the report so we can be clear?

3 MS. YUAN: Sure. I've given Special Agent Hernandez a  
4 May 11th, 2010, report. I believe it was written by Detective  
5 Keith Kopcha (phonetic) but I have to take the report back and  
6 check that. And it involves an interview with Detective -- of  
7 Detective Kopcha and Eric Villareal (phonetic) and some of their  
8 investigation.

9 THE WITNESS: Okay.

10 MS. YUAN:

11 Q. Thank you. So after reviewing that report -- and now was I  
12 correct in identifying it? That's a May 11, 2010 report by  
13 Detective Kopcha?

14 A. Yes. Yes.

15 Q. And does that report indicate that he and Detective  
16 Villareal conducted follow-up into the homicide of Maryetta  
17 Griffin?

18 A. That is correct.

19 Q. And does that report indicate that those two Detectives  
20 attempted to interview Mr. Avery regarding any knowledge he may  
21 have had concerning Walter Ellis?

22 A. Yes, they did.

23 Q. I'm now showing you -- and again, please read it to  
24 yourself. A May 13, 2010 report by the same Detectives. Again,  
25 it appears to be follow-up investigation into the Maryetta

1 Griffin homicide at that point in time?

2 A. Yes, it's an interview regarding an individual by the name  
3 of Derrick Crawley.

4 Q. And really, -- and I know I'm giving you this and you're  
5 right on the stand there. And if you want to skim it, that's  
6 fine. But my question really is, is this a report indicating  
7 that there was additional investigation -- once Walter Ellis's  
8 D.N.A. was linked to Maryetta Griffin, that there was additional  
9 investigation into the Maryetta Griffin homicide?

10 A. Yes, they were interviewing Derrick Crawley regarding his  
11 relationship with that address at 3032 North 7th Street. The  
12 history.

13 Q. And you weren't involved in this investigation? You're not  
14 in the report. I didn't see that.

15 A. No, I'm not involved in this.

16 Q. And similarly with the May 11, 2010, report that I showed  
17 you just a minute ago, were you involved in that investigation?  
18 Of going back to interview Mr. Avery to ask if he had any  
19 knowledge of Walter Ellis?

20 A. No, I wasn't.

21 Q. I just have one more to show you, and that's a May 26, 2010  
22 report. And if you could just review that really quickly?

23 A. Yes. On May 26, 2010, Detective Kopcha interviewed a  
24 Valerie Eubanks.

25 Q. And again, this is a continuation of the investigation of

1 Maryetta Griffin after Walter Ellis's D.N.A. was linked to her  
2 -- biological material found on her?

3 A. Yes, correct. He interviewed Valerie Eubanks. And there's  
4 mention of a James Hamilton, which was also related to that  
5 house on -- where Maryetta was last seen walking into.

6 Q. And you weren't involved again in this investigation? In  
7 this particular investigation?

8 A. No, I was not.

9 Q. Would the District Attorney's Office have been alerted once  
10 Walter Ellis's D.N.A. was connected to Maryetta Griffin?

11 A. Yes.

12 Q. And who decides if an individual is going to be charged with  
13 a crime?

14 A. That would be the Milwaukee County District Attorney. I  
15 bring my cases to them, they review it. Or anything that would  
16 change along -- with any of the cases, they will make the  
17 determination if they're going to prosecute or pursue with it or  
18 not pursue with it.

19 Q. So I've shown you Plaintiff's Exhibit 1 where it's a  
20 Criminal Complaint and Walter Ellis was the Defendant, and there  
21 was first degree homicide charges. Who made the decision to  
22 charge in that matter against Walter Ellis?

23 A. That's A.D.A. Mark Williams.

24 Q. So if there is D.N.A. material linking Walter Ellis to those  
25 victims, and Walter Ellis is charged, Mark Williams is the only

1 person making that decision?

2 A. Yes.

3 Q. Did you know anything about Walter Ellis in 1998?

4 A. No.

5 Q. Were you aware of his identity in 1998?

6 A. No.

7 Q. Did you know anything about Walter Ellis in 2003?

8 A. No.

9 MS. YUAN: I have no further questions.

10 MR. SMOKOWICZ: Your Honor, Your Honor -- Miss Yuan,  
11 Miss Yuan --

12 MS. YUAN: Oh, I'm sorry. One moment.

13 Q. What unit was Detective Villareal, Detective Kopcha in back  
14 in 2010?

15 A. That would have been the Cold Case Unit. Those were the  
16 two -- I said three additional Detectives. I stand corrected.  
17 There were two. And that was Eric Villareal and Keith Kopcha.

18 MS. YUAN: Those are all the questions I have. Thank  
19 you.

20 THE COURT: Recross?

21 MR. STAINTHORP: Yes, Judge.

22 **RECROSS EXAMINATION**

23 **BY MR. STAINTHORP:**

24 Q. Special Agent Hernandez, you were just shown three reports.

25 A. That's correct, sir.

1 Q. And the first one that you were shown, the May 11th, 2010?

2 A. Yes, sir.

3 Q. I want to show you that one. With respect to that portion  
4 of the investigation, essentially if you look at the second  
5 page, the Detectives pursuing that investigation were attempting  
6 to discover new evidence in relationship to Mr. Avery and his  
7 potential -- any connection to the Griffin homicide, correct?

8 A. I don't -- I don't --

9 Q. Well, let me call your attention to this paragraph here.

10 A. Okay.

11 Q. Where they're listening to Mr. Avery's phone calls. Do you  
12 see that?

13 A. Yes.

14 Q. All right. And so they're attempting to -- or they're  
15 actually listening to Mr. Avery's phone calls to see if he says  
16 something incriminating about the Maryetta Griffin homicide,  
17 correct?

18 A. I don't know what's in their mind.

19 Q. Well, why would the Detectives be listening to Mr. Avery's  
20 phone calls unless they were attempting to gain information or  
21 gain evidence that Mr. Avery knew something incriminating about  
22 the Griffin crime?

23 A. I can't speculate, but as an investigator, if I go out to  
24 interview --

25 Q. You know, if you can't speculate, that's fine.

1 A. I just want to answer it.

2 Q. Well, it sounds to me --

3 A. I'd like to answer it.

4 Q. It sounds to me like you don't know.

5 A. Well -- okay.

6 Q. Is that correct? All right. Let's just deal with the  
7 facts. The fact is that they go to the prison, correct?

8 A. Right.

9 Q. And this is after -- so this is May the 11th of 2010. We've  
10 already established by that time the D.N.A. from Maryetta  
11 Griffin has come back showing it's Walter Ellis's sperm in  
12 Maryetta Griffin's mouth, correct?

13 A. Yes.

14 Q. All right. So at that time, in terms of this further  
15 investigation, they're going to the prison where Mr. Avery is  
16 located, correct?

17 A. That's correct.

18 Q. And they're -- initially they're trying to interview  
19 Mr. Avery, correct?

20 A. That's correct.

21 Q. And then they're listening to Mr. Avery's phone calls,  
22 correct?

23 A. Which was brought up by the Captain of that prison. And  
24 which you normally do sometimes. You check the logs. You check  
25 the phone calls. That's what they were doing.



1 Q. So they're essentially investigating whether Mr. Avery in  
2 these phone calls is indicating some knowledge of or some  
3 evidence in relationship to the Maryetta Griffin homicide?

4 A. I don't know that.

5 Q. Okay. Well, if you're listening to phone calls of  
6 Mr. Avery, is it reasonable to assume that you're actually  
7 conducting an investigation of Mr. Avery in relationship to the  
8 Walter Ellis -- the Maryetta Griffin homicide?

9 A. I don't know what the Detectives were thinking, but that  
10 evidence was shown to them, and they were reviewing it. I don't  
11 know what was in their mindset as far as are they trying to -- I  
12 guess they're probably looking for further truth of what's going  
13 on.

14 Q. Okay. Now, the next report that you were just shown -- and  
15 this is the one which is dated May the 26th of 2010. Do you see  
16 that one?

17 A. Yes, sir, I do.

18 Q. And this is the interview with Valerie Eubanks?

19 A. Yes, sir.

20 Q. And again, the investigation is in relationship to Mr. Avery  
21 and persons -- and other persons who were connected to him,  
22 right? Including Lorenzo Frost and Lucious Goins?

23 A. Those were all individuals names that came up in the  
24 investigation.

25 Q. Okay. And so would you agree that this investigation --

1 this portion of the investigation also is attempting to gain  
2 information from Ms. Eubanks that would connect Lorenzo Frost,  
3 William Avery, and Lucious Goins to the homicide of Maryetta  
4 Griffin?

5 A. What they're doing is they're investigating the homicide of  
6 Maryetta Griffin.

7 Q. And they're doing that by going to Ms. Eubanks and  
8 attempting to generate some evidence of a connection between  
9 Mr. Avery, Mr. Frost, and Mr. Goins to the homicide of Maryetta  
10 Griffin, correct?

11 A. I'm not sure what exactly they were doing, sir.

12 MS. YUAN: Counsel, I'm just going to object. Please  
13 show him the full report. You're misrepresenting the evidence  
14 to him.

15 MR. STAINTHORP: Counsel, the full report --

16 MS. YUAN: The second page, too.

17 MR. STAINTHORP: Second page.

18 THE COURT: Counsels, don't argue among yourselves.  
19 What's the objection?

20 MS. YUAN: Your Honor, I'm objecting. I believe  
21 Attorney Stainthorp is misrepresenting this report to the  
22 witness.

23 THE COURT: Well, he can select pieces from the  
24 report. You can cover it on redirect.

25 MR. STAINTHORP: And I would like to state for the

1 record that I resent that. I am showing two pages, and I resent  
2 any indication in this record that I am misrepresenting anything  
3 to this witness. I'm showing him the entire report.

4 THE COURT: Well, that is not an appropriate  
5 objection. But it's noted on the record.

6 MR. STAINTHORP:

7 Q. It's true to say that with respect to this portion of the  
8 investigation, the Detectives are attempting to discover from  
9 Ms. Eubanks whether she is aware of any connection between  
10 Mr. Avery, Mr. Frost, and Mr. Goins and the Griffin homicide,  
11 correct?

12 A. They're showing photos of Walter Ellis, William Avery, and  
13 Derrick Crawley. They showed photos of Terry Bryson, Lucious  
14 Goins, and of Lorenzo Frost.

15 Q. Okay. So again, this is an attempt to obtain information  
16 that would connect William Avery and his associates -- that  
17 would be Mr. Frost and Mr. Goins --

18 A. Sure. They're doing an investigation.

19 Q. Excuse me. Let me finish the question, okay?

20 A. Yes, sir.

21 Q. It's true to say that in this portion of the investigation,  
22 they're once again trying to connect, through Ms. Eubanks,  
23 William Avery up to the murder of Maryetta Griffin, correct?

24 A. Or Walter Ellis.

25 Q. With respect to the third report that you were just shown by

1 your attorney -- showing you all three pages of this report --  
2 this relates to an investigation which is primarily an interview  
3 with Derrick Crawley, is that correct?

4 THE COURT: That's the 5-13 report?

5 MR. STAINTHORP: Yeah. I'm sorry. This is the  
6 5-13-2010.

7 THE WITNESS: This is an interview of Derrick  
8 Crawley, sir.

9 MR. STAINTHORP:

10 Q. Right. And again, this interview for a substantial portion  
11 of it is focussed on Mr. Avery, correct? In particular, page 2.  
12 Feel free to look at as much as you want of that report.

13 A. Speaking to Mr. Crawley regarding --

14 Q. No, no. We're not reading it into the record. It's not in  
15 the record. I'm just asking you to -- after reviewing it,  
16 whether you agree with me that a portion of that investigation  
17 is attempting to determine whether Mr. Crawley has any  
18 information that would associate Mr. Avery with the murder of  
19 Maryetta Griffin?

20 A. Okay.

21 Q. So do you recall my question?

22 A. No.

23 Q. Okay.

24 A. Sorry.

25 Q. So I was asking you whether it's fair to say that a

1 substantial portion of this report -- not the entire portion,  
2 but a substantial portion is attempting to find information --  
3 and this especially appears on Page 2 -- that would connect  
4 Mr. Avery up to the murder of Maryetta Griffin, correct?

5 A. Crawley indicates that he knew him. Your client.

6 THE COURT: I didn't hear that answer.

7 THE WITNESS: I'm so sorry, Your Honor. Crawley  
8 indicates that he knew Mr. Avery.

9 MR. STAINTHORP:

10 Q. And in particular -- and this is from some years past,  
11 correct?

12 A. Yes, sir.

13 Q. And in particular, Mr. Crawley is questioned as to whether  
14 he had seen Mr. Avery in the neighborhood in which Ms. Griffin's  
15 body was found, correct?

16 A. Yes.

17 Q. Now, you did testify under -- pursuant to questions by your  
18 attorney that you did recall that Mr. Avery became emotional  
19 during the interview -- or the interrogation that you conducted  
20 on March the 24th?

21 A. That's correct.

22 Q. Okay. Did you consider that to be inculpatory? Or do you  
23 consider that now to be inculpatory?

24 A. That was my opinion.

25 Q. Okay. Can you tell me where in your reports you report

1 that?

2 A. We don't put our opinions on reports. It's factual  
3 statements, sir.

4 Q. Can you tell me where in your report you assert that  
5 Mr. Avery became emotional during that interview on the morning  
6 of March the 24th, 1998?

7 A. Once again, I do not put my opinions on these reports.

8 Q. Okay. I'm not asking you about opinions. I'm asking about  
9 facts. Where in those reports do you report that Mr. Avery  
10 became emotional?

11 A. That's an opinion, sir. I answered your question. That's  
12 an opinion from my experience of doing thousands of interviews.  
13 As a father, I can pretty much tell when someone is not happy  
14 with themselves or they're depressed. That's an opinion, sir.

15 Q. And that's important, isn't it?

16 A. Yes, sir.

17 Q. Okay. And it's not in your report, is it?

18 A. No, it's not.

19 Q. And just to be clear, in case it wasn't clear already, there  
20 is nowhere in either of those reports that you indicate that  
21 Mr. Ellis wanted to terminate the questioning about --

22 THE COURT: Mr. Avery?

23 MR. STAINTHORP: I'm sorry. Did I say -- I'm sorry.

24 THE COURT: Yes.

25 MR. STAINTHORP:

1 Q. To be clear, there is nowhere in those reports that you  
2 record that Mr. Avery indicated that he wanted that  
3 interrogation session to end, correct?

4 A. As I stated yesterday, it was over at 12:30. It was  
5 terminated. And no, I did not put it in there.

6 Q. Okay. Thank you. Now, you were asked some questions  
7 pursuant to questioning by your attorney -- oh, actually before  
8 I get to that, let me just go back to when you were talking  
9 about all these additional cases that you sent out in 2010 or  
10 2009 and 2010 to attempt to make a connection with Walter Ellis.  
11 Do you recall that?

12 A. Yes.

13 Q. And so you were indicating that there were hundreds, if not  
14 thousands of cases, is that correct?

15 A. Of cases?

16 Q. Yeah. That you sent out for analysis?

17 A. I would say probably -- I think I investigated -- I sent out  
18 a whole lot.

19 Q. Okay.

20 A. I kept going back.

21 Q. So you sent out a lot of cases?

22 A. Yes.

23 Q. To determine whether there was a connection between  
24 Mr. Ellis's D.N.A., which has now been discovered, correct? And  
25 the D.N.A. recovered in these other cases, correct?

1 A. Yes.

2 Q. All right. You didn't send out Mr. Avery's case, did you?

3 A. No, I didn't.

4 Q. Okay. And of those cases that you did send out, there were  
5 9 that came back showing a connection between Mr. Ellis's D.N.A.  
6 and biological material in the case?

7 A. There were 9 that were charged.

8 Q. No. There actually were 7.

9 A. Seven. Okay. Seven. Thank you.

10 Q. So there were the 7 that were charged. And then there was  
11 the -- the -- there also was a connection made in the Jessica  
12 Payne case, correct?

13 A. Yes.

14 Q. And that was a case where Chaunte Ott had been convicted of  
15 that murder, correct?

16 A. Yes.

17 Q. And then subsequently, once the D.N.A. associating with  
18 Mr. Ellis came out, his conviction was vacated, correct?

19 A. One more time? Which case?

20 Q. This is the -- Jessica Payne is the victim.

21 A. Thank you.

22 Q. Chaunte Ott is the person who was convicted.

23 A. Okay.

24 Q. And when the D.N.A. connecting it to Mr. Ellis came out, his  
25 conviction was vacated?



1 A. I'm aware of that, yes.

2 Q. And another case was the Carron Kilpatrick victim, correct?

3 A. That's correct.

4 Q. And in that case a different person was charged with the  
5 crime, correct?

6 A. That's correct.

7 Q. And that person would actually -- was actually found not  
8 guilty at trial, correct?

9 A. I remember that, yes.

10 Q. And then -- so subsequently, although it wasn't work that  
11 you did, the D.N.A. results in the Maryetta Griffin case came  
12 back, and those also showed that Mr. Ellis was associated with  
13 biological materials found in that case, correct?

14 A. That's correct.

15 Q. So of all those cases that you sent out, 10 of them were  
16 associated with Mr. Ellis?

17 A. That's correct.

18 Q. And -- okay. Now, going back, and for purposes of  
19 completeness, let's deal with the -- you were read some  
20 questions from your deposition by your attorney. And I want to  
21 read you some additional questions and the answers from your  
22 deposition, and ask you if you were asked these questions and  
23 gave these answers. First excerpt is at Page 72, line 16.

24 Question: Okay.

25 MS. YUAN: One second, counsel. What line?

1 MR. STAINTHORP: 16.

2 MS. YUAN: I object. I don't think that this is -- I  
3 don't think this is part of -- I don't think this would make the  
4 deposition testimony that was read in more complete. I don't  
5 think it's at all part of that one question.

6 MR. STAINTHORP: Judge, it has to do with Mr. --  
7 Special Agent Hernandez's recollection.

8 THE COURT: Okay. The Court will allow it.

9 MR. STAINTHORP:

10 Q. Question: Okay. And were you involved in getting Mr. Avery  
11 to come into the Department for an interrogation? Answer: I  
12 may have. Okay. Do you have any recollection of being involved  
13 in that? Answer: Not of bringing him down, no. Okay. Do you  
14 have a recollection of interviewing him? Answer: I saw that I  
15 did have an interview with him. 1 or 2, I believe. Question --  
16 and now I'm going to Page 73, line 7. Question: It sounded to  
17 me that you were just referring to the reports that you reviewed  
18 that documented your interviews with Mr. Avery, correct?  
19 Answer: Yes. Question: Okay. Apart from what's in the  
20 reports, do you have any independent recollection of any of your  
21 interviews with Mr. Avery? Answer: No, I don't. Question:  
22 Okay. So your recollection of those interviews are limited to  
23 what's in the written report? Answer: That's correct.

24 Do you remember being asked those questions and giving  
25 those answers?

1 A. I believe that's what I said, if that's documented, yes.

2 Q. Okay. Now on Page 77, line 15.

3 MS. YUAN: Line 15?

4 MR. STAINTHORP: Correct.

5 Q. Question: Was Monday, March the 23rd, 1998, at 10:40 p.m.  
6 your first interaction with Mr. Avery? Answer: To the best of  
7 my knowledge, I believe this would be the first time. Question:  
8 Okay. What do you recall about this initial interview with  
9 Mr. Avery? Answer: I -- well, what I -- I don't recall the  
10 actual interview itself. But as the report reflects, that he  
11 was advised of and did not wish to speak with us at this time.  
12 Do you recall that testimony?

13 A. That document is correct.

14 Q. And then going to Page 79 -- and this just for context.  
15 This is the portion that your attorney read to you. Line 5.  
16 Okay. Do you recall your interview with Mr. Avery and Detective  
17 Phillips on March 24th, 1998? Answer: I kind of do, yes.  
18 Okay. What do you recall about this interview? I recall that  
19 Mr. Avery became emotional and -- Question: What do you mean by  
20 emotional? Answer: Like sorry or upset with himself. Then on  
21 line 22, Question: What did you do during the first part of the  
22 interview? Answer: I'm sure we talked regarding the homicide  
23 itself and the investigation. You're saying you're sure you  
24 did. But do you have a specific recollection of the first part  
25 of this interrogation? Answer: No, I don't. Do you recall

1 that testimony?

2 A. I recall that.

3 Q. And going down to line 10. Okay. So before the portion you  
4 were just testifying where you recall Mr. Avery getting  
5 emotional, do you recall any aspects of the interrogation?

6 Answer: What my report reflects-- Question: Yes. Is that he  
7 was indicating that I'm responsible. I'm responsible. And that  
8 Ronnie should never have gotten rid of the body. Was that your  
9 testimony?

10 A. Yes.

11 Q. Okay. And that you're testifying from your report. What  
12 your report reflects, correct?

13 A. That's correct.

14 Q. Line 82.

15 MS. YUAN: Page 82?

16 MR. STAINTHORP: I'm sorry. Page 82. And this in the  
17 context --

18 MS. YUAN: What line?

19 MR. STAINTHORP: I'm going to start at line 11, but  
20 I'll just add some context. You're being asked about the  
21 statements that you assert Mr. Avery made in the 3/24 morning  
22 interrogation session. Question: Did you ask Mr. Avery to  
23 provide any of those details? Answer: I'm sure I did.

24 Question: Do you have a specific recollection of -- Answer:  
25 No, I don't. Question: You're saying you're sure you did ask

1 him to provide details about his alleged responsibility in this  
2 homicide, but you don't have a specific recollection of doing  
3 so? Correct? Answer: That's correct. Was that your  
4 testimony?

5 A. Yes.

6 Q. Then we'll go down now to Page 83, just below this. Line  
7 one. Starting at line one. Question: Okay. Did you provide  
8 any details to Mr. Avery about the homicide or anything you knew  
9 about the investigation? Answer: I don't remember what exact  
10 details I gave him back then. Question: Okay. Did you give  
11 Mr. Avery any -- any false details about the investigation to  
12 try and elicit a confession? Answer: I don't remember.

13 Question: Okay. You may have done, but you don't recall?

14 Answer: I could have, but I don't remember. Question: That  
15 would have been one technique you may have used to obtain a  
16 confession from a suspect, correct? Answer: I find that, yes,  
17 correct. Question: Okay. But you don't recall whether you did  
18 that on this particular interrogation or not? Answer: I don't  
19 recall. Was that your testimony?

20 A. Yes, that's correct.

21 Q. And then going down now to Page 90. And this is line 15.

22 MS. YUAN: One second. Okay.

23 MR. STAINTHORP:

24 Q. And I'm just going to read line 15. Question: Other than  
25 anything you have testified to already about what you recall

1 about what you said or what Mr. Avery said to you -- and then  
2 there's some -- a statement that's not relevant. Is there  
3 anything else you recall other than what you've already  
4 testified? Answer: No, not that I can recall right now.

5 A. Right now.

6 Q. That was your testimony, correct?

7 A. Right now is the magic word. Right now.

8 Q. And this is after you --

9 A. That was how long ago, sir?

10 Q. I'm sorry. Counsel --

11 A. I'm sorry. Go ahead.

12 Q. This is after you've reviewed the Police reports, correct?

13 A. Yes.

14 Q. Okay. And after you have already been deposed about this  
15 case. This is on page 90. So you've already been deposed for a  
16 considerable length of time, correct?

17 A. Yes. I don't remember exactly what time, but I'm sure if  
18 you say it is.

19 Q. Going down, Page 91. And there's an incorrect time in here,  
20 but I'll read it anyhow. And it's referring to the morning  
21 interrogation on 3/24. So the question is -- and this is line  
22 7. Do you have a recollection as to why this interrogation came  
23 to an end? And then there is an incorrect time at 2:30 p.m.

24 Answer: I don't. Either -- I don't. Do you recall being asked  
25 that question and giving that answer?

1 A. Yes. I don't recall, but that's a true document.

2 Q. And then going down to Page 93. Page 93, line 25. You're  
3 being asked about how you were recording the interview.

4 Question: Were you also taking notes on a steno pad or memo  
5 book? Answer: I don't remember. I can tell you what my  
6 practice is. Well, I don't remember. Did you give that  
7 testimony?

8 A. Yes.

9 Q. Going down to Page 95. And again talking about the same  
10 interview that occurred on the morning of March the 24th. Line  
11 9. Question: Okay. Did Mr. Avery review the statement? Do  
12 you recall that? Answer: I don't recall if he reviewed it.  
13 Down to line -- did you give that testimony?

14 A. Yes, I believe so. If that's what the document states.

15 Q. Going down to line 15. Okay. And you can't recall one way  
16 or the other if he had an opportunity to review it or to make  
17 any corrections? Answer: I know we offered it. I don't  
18 remember if he did or not. Did you give that testimony?

19 A. Yes.

20 Q. Now going to the later interrogation session.

21 MS. YUAN: I think this is out of scope. I did not  
22 read anything regarding that during my redirect. My testimony  
23 there -- my questioning there was limited specifically to the  
24 March 24th, 1998, interview.

25 MR. STAINTHORP: Well, this is an interrogation on the

1 same day, Judge. Just one later.

2 THE COURT: Well, but that wasn't covered on  
3 recross -- or redirect. So the Court will sustain the  
4 objection. Outside the scope.

5 MR. STAINTHORP:

6 Q. So now we'll go to Page 113. Now we're dealing with the --  
7 your work with respect to the jailhouse informant.

8 MS. YUAN: Same objection, Your Honor. I did not  
9 question this witness regarding any of the jailhouse informants  
10 during my redirect.

11 THE COURT: That's true also, so the Court will  
12 sustain the objection.

13 MR. STAINTHORP: Well, Judge, I think it's somewhat  
14 related to the -- I mean, there is -- there was some testimony  
15 in relation to subsequent work that was done by others with  
16 respect to going to the jail.

17 THE COURT: But none of that was of the jailhouse --  
18 we're talking now about Randolph Kimbrough?

19 MR. STAINTHORP: Yeah, we are.

20 THE COURT: That wasn't covered on redirect, so the  
21 Court will sustain the objection.

22 MR. STAINTHORP: All right. Judge, that's all I have.

23 THE COURT: Anything else from this witness?

24 MS. YUAN: I have nothing further. Thank you.

25 THE COURT: All right. You may step down, Detective.



1 Or Special Agent, now, Hernandez.

2 THE WITNESS: Thank you, sir.

3 THE COURT: Let's start the next witness. We've only  
4 been an hour in court. So next witness, please.

5 MR. SMOKOWICZ: Call Kevin Armbruster.

6 THE COURT: Unless someone desperately needs a break.  
7 Detective Armbruster, you've previously been placed under oath,  
8 and that oath still applies.

9 THE WITNESS: Yes.

10 **LIEUTENANT KEVIN ARMBRUSTER**, recalled as a witness,  
11 having been previously duly sworn, on oath testified as follows:

12 **DIRECT EXAMINATION**

13 **BY MR. SMOKOWICZ:**

14 Q. Good morning, sir.

15 A. Good morning.

16 Q. Would you remind the jury of your full name, please?

17 A. Kevin Armbruster.

18 Q. And what's your present rank, sir?

19 A. Lieutenant of Police.

20 Q. Lieutenant Armbruster, where were you born?

21 A. Right here in Milwaukee.

22 Q. And where did you grow up?

23 A. In Milwaukee.

24 Q. And where did you go to high school?

25 A. Pius High School.

1 Q. And when did you graduate from Pius?

2 A. 1988. '87, sorry.

3 Q. And after you graduated from high school in 1987, did you go  
4 on in education, at all?

5 A. Yes.

6 Q. Where did you -- where did you follow-up with that?

7 A. I attended M.A.T.C. at first, and then Mount Senario  
8 College.

9 Q. And with respect to M.A.T.C., what did you go to M.A.T.C.  
10 for?

11 A. That was very basic classes for Police Science.

12 Q. And what years did you attend M.A.T.C.?

13 A. I started it in '88. I believe I was finished there at --  
14 within a couple of years. My education was prolonged because I  
15 was also on the Police Department, so I was doing full time  
16 Police, and then day or night classes depending on what shift I  
17 was at. So my whole college experience is a good 8 years, I  
18 think I finished. Finally. So maybe 1 or 2 classes a semester.

19 Q. And did you end up getting a degree from M.A.T.C. in 1990?

20 A. I ended up getting the degree from Mount Senario.

21 Q. When did you start attending Mount Senario?

22 A. Somewhere in the early 90's. And I wish I knew when I  
23 graduated. I think it was somewhere in '96? It's a guess. I  
24 really don't know.

25 Q. And what degree did you get from Mount Senario College?

1 A. That was a Bachelor's in Police Science.

2 Q. Now, we touched a little bit about where you worked, but  
3 let's just go back. Once you graduated from Pius in 1987, did  
4 you start working at that point?

5 A. Yes, I did.

6 Q. Where did you start working?

7 A. After high school I worked at a -- like a psych hospital,  
8 outpatient facility. I also did blueprinting, drafting work for  
9 a tool and die shop. But all that was fairly limited because I  
10 got hired with the Police Department in '88.

11 Q. Okay. And when you say the Police Department, what Police  
12 Department are we talking about?

13 A. City of Milwaukee.

14 Q. So when you get hired in 1988 -- strike that. Before we get  
15 that, how old are you, sir?

16 A. I'm 46? 7? I was born in '69.

17 Q. Okay. With respect to the Milwaukee Police Department, when  
18 you started in 1988, what position did you have at that point?

19 A. I worked third shift job at -- doing fingerprinting. Worked  
20 in our identification division. Also helped with booking  
21 prisoners.

22 Q. Were you a Police -- a full sworn Police Officer at that  
23 point?

24 A. I was a Police Aide, which is another word for like a cadet.  
25 Prior to being 21 years of age, you could be hired by the Police

1 Department and work there. You just don't have Police powers  
2 until you turn 21.

3 Q. So when you turned 21, were you able then to enter the  
4 Academy?

5 A. Yes.

6 Q. And that would be the Milwaukee Police Department's Academy?

7 A. Yes.

8 Q. And for how long -- well, that would be about 1990, roughly?

9 A. Yes. 1990 I started.

10 Q. And how long was your recruit training in the Academy in  
11 1990? Approximately?

12 A. Four months. Five months.

13 Q. After you graduated from the Academy, what was your first  
14 assignment out of -- in the Police Department?

15 A. I was assigned to the third shift, District Number 3,  
16 patrol.

17 Q. And where is District Number 3 located?

18 A. At that time it was located on 47th and Vliet. So the north  
19 side of Milwaukee.

20 Q. And for how long were you a Patrol Officer in the Third  
21 District?

22 A. I was within the Third District for almost 6 years, but  
23 within that District I was only a uniformed patrol for a couple  
24 of years.

25 Q. What happened after the first 2 years?

1 A. I think it was based on my young appearance at the time, I  
2 ended up doing a lot of undercover work. Plain clothes, special  
3 assignments. Drug, gangs investigations.

4 Q. And when you talk about youthful appearance and being  
5 undercover, what was the nature of those investigations?

6 A. I did prostitution, escort investigations. I did underage  
7 drinking. We had Marquette University there. We had U.W.  
8 Milwaukee. I did drug buys. That's primarily the undercover  
9 work I did.

10 Q. Okay. After that 6 years in District Number 3, what  
11 happened next?

12 A. Brief -- a brief stint on day shift patrol, which lasted a  
13 week, and then they put me day shift undercover. And then  
14 shortly after that, I think it was within -- it's within that  
15 year I got promoted to Detective. And then I went back third  
16 shift again.

17 Q. So that would be, what? About 1996? Somewhere in that  
18 range?

19 A. '97.

20 Q. When you were promoted to Detective, what was the first  
21 assignment that you had?

22 A. The first job assignment, meaning the unit I was on, was our  
23 Violent Crimes Unit. That investigates all shooting -- could be  
24 stabbing -- related crimes just short of homicide. Sometimes  
25 you do work on homicides, but the Homicide Unit takes care of

1 those investigations.

2 Q. And how long did you remain in the Violent Crimes Section?

3 A. Two -- almost 2 years. Year-and-a-half, 2 years.

4 Q. So that would take us to somewhere around 1999?

5 A. Yes.

6 Q. What happened in 1999?

7 A. I was moved to the Homicide Unit, third shift.

8 Q. And for how long did you remain in the Homicide Unit?

9 A. Until 2002.

10 Q. What happened in 2002?

11 A. I was asked to be assigned to a Federal Task Force. It was  
12 with the Bureau of Alcohol, Tobacco, and Firearms. It was kind  
13 of a unique position for someone from our Department. That I  
14 would physically be assigned in a different work location. I  
15 didn't report to the Police Department anymore. I reported to  
16 some building downtown and did long term gang, drug  
17 investigations, violent crime and firearm related  
18 investigations.

19 Q. And for how long did you remain in that assignment with this  
20 Joint Task Force, beginning in 2002?

21 A. I was almost there 8 years. Eight-and-a-half years. My  
22 hair was nice and long. Long goatee. Long hair.

23 Q. And so that takes us to about 2010, roughly?

24 A. Yes.

25 Q. What happened in 2010?

1 A. I went back to our Police Department to investigate bank  
2 robberies and case management for a short time before I went to  
3 investigate -- moved to the Sensitive Crimes Division, which --  
4 that investigated like child abuse, sexual assaults, missing  
5 persons.

6 Q. How long did you remain in Sensitive Crimes?

7 A. Until April of last year.

8 Q. So that would be April of 2014?

9 A. Yes.

10 Q. And what happened in April of 2014?

11 A. I then was promoted to Lieutenant.

12 Q. And upon promotion, what was your assignment?

13 A. I was assigned and I currently am assigned to the Central  
14 Investigations Division. That incorporates supervising  
15 Detectives, some Sergeants, Officers, in criminal  
16 investigations. That's within District 3 and District 5, which  
17 is basically the north side, the central city, from the east  
18 side all the way west to Tosa.

19 Q. And what are the nature of the crimes that the Central  
20 Investigation Division investigates?

21 A. From critical incidents, meaning Police related Officer  
22 involved shootings to some homicide investigations. Initially  
23 all violent crimes, shootings, stabbings, carjackings,  
24 robberies, burglaries -- just about anything -- anything you see  
25 on the news pretty much would be stuff we would investigate.

1 Q. And your normal shift at this time?

2 A. My shift hours?

3 Q. Yes.

4 A. Are 11:00 a.m. to 7:00 p.m., but they fluctuate.

5 Q. Okay. Lieutenant, I know we've seen this document on more  
6 than one occasion in this case, but do you recognize this as the  
7 report that you prepared of the initial contact that you had  
8 with the person who later identified himself as Antron Kent? Or  
9 who identified himself as that, but asked to remain confidential  
10 at that time?

11 A. That is correct.

12 THE CLERK: Is this 1020? I don't show this as being  
13 entered.

14 MR. SMOKOWICZ: Well, I apologize.

15 Q. Take a look at that.

16 A. (Witness so responds.)

17 Q. Lieutenant, have you now had an opportunity to review that  
18 document?

19 A. Yes.

20 Q. And can you identify it for the jury, please?

21 A. Yes. This is a report that I created after the initial  
22 phone call by Antron Kent.

23 Q. And is this a document that you would prepare normally in  
24 the course of your work at that time as a Detective in the  
25 Homicide Division?



1 A. Yes.

2 MR. SMOKOWICZ: Your Honor, I offer Exhibit 1020 into  
3 evidence.

4 MR. ELSON: No objection.

5 THE COURT: The Court will receive it.

6 MR. SMOKOWICZ:

7 Q. Does this basically recount the conversation that you had --  
8 or the information that you obtained from the person later  
9 identified as Antron Kent at that time, on July 24th of 2002?

10 A. Yes.

11 Q. Okay. With respect to this report, did you provide any of  
12 the details to Antron Kent?

13 A. No. I didn't even know about it.

14 Q. Okay. Let's back up a little bit, refresh everybody on this  
15 one. How is it that you -- how is it that you became involved  
16 with this phone call?

17 A. This is the one that they had paged for any homicide  
18 Detective to pick up a phone call. And then when no one did,  
19 they instructed me to do it, so I answered the phone.

20 Q. Now, prior to this conversation, where you were given the  
21 name William Avery by the person making the phone call to the  
22 Department, had you ever heard of William Avery before?

23 A. No.

24 Q. Had you done any work whatsoever -- I know you didn't get  
25 into the Homicide Division until what was it? About 1999, was

1 it?

2 A. Correct.

3 Q. In that time from 1999 until the year 2002, on July 24th,  
4 had you done any work on the Maryetta Griffin homicide  
5 investigation?

6 A. No.

7 Q. With respect to this statement in particular, how did you go  
8 about just preparing this report? What did you do, just in  
9 general?

10 A. Just taking the initial information over the phone, and then  
11 checking to see what case this even involved. And then  
12 eventually I spoke with the Assistant District Attorney, Ron  
13 Dague, who had prosecuted Mr. Avery, and asked him about the  
14 information about what was charged, and anything that was going  
15 on. If there's still ongoing work as far as a homicide  
16 investigation.

17 Q. So when the phone call comes in, do you tell this person to  
18 sit on hold for awhile while you go and get any file material?

19 A. No.

20 Q. How did it work in terms of mechanically. You picked up the  
21 phone. Then what happened?

22 A. You listen. You take down the information that, you know,  
23 he's given you. You don't -- I knew nothing about it, so until  
24 you look at what he's talking about, you get an idea of what  
25 case he's even talking about. Sometimes you get information.

1 People will call and they'll give you information. And then,  
2 you know, understand the person's already charged and convicted  
3 on it. So, you know, there's not much to do on it. It's just  
4 taking the information and --

5 Q. So is it fair at that point when you were writing these --  
6 making notes on the conversation with Antron Kent, did you know  
7 Antron Kent at all?

8 A. No.

9 Q. Did he ask for you by name?

10 A. No.

11 Q. Had you ever worked with Antron? Or to the best of your  
12 memory have you ever worked with Antron Kent in any other case?

13 A. No.

14 Q. With respect to what he was telling you, you know, just kind  
15 of summarizing what's here, is that he was with another  
16 individual by the name of William Avery in the pod in Sayre,  
17 Oklahoma. Did you know anything about either of these two  
18 inmates in Sayre, Oklahoma, at that time?

19 A. No. I didn't even know where Sayre, Oklahoma, was.

20 Q. And with him talking about -- bragging about beating a  
21 homicide case, or being convicted of a drug case, had you had  
22 any knowledge of William Avery being convicted of any drug case  
23 at that point?

24 A. No.

25 Q. And what about in terms of beating a homicide case? Had you

1 had any information like that?

2 A. No.

3 Q. With respect to then some of the details that are in here,  
4 that Avery was at, quote, the spot, close quote. One of his  
5 customers he sells dope to didn't have any money, so they had  
6 sex for dope. Any of those details -- did you know any of them  
7 before or during this phone conversation?

8 A. No.

9 Q. This is all coming from whom?

10 A. This is coming from Antron Kent.

11 Q. And then the next detail. After having sex, they fall  
12 asleep. He wakes up. She's stealing dope. Smoking dope in the  
13 room. How about those details? Did you know any of that?

14 A. I did not.

15 Q. And who did that come from?

16 A. Mr. Kent.

17 Q. And I'm just going to read the rest here in terms of he  
18 wakes up, he snapped, got up, started to choke her, not  
19 breathing anymore, but he did not name -- states it was his  
20 buddy got arrested for the drug case. His guy came over, moved  
21 the dead body to the trunk of the vehicle, to an alley where  
22 they dumped her. All of those details, who did that come from?

23 A. Mr. Kent.

24 Q. Did you have anything in front of you? Any document, any  
25 report, anything to make any suggestions to him about any of

1 these details at that time while you're on the phone talking to  
2 him?

3 A. No.

4 Q. Now, there's a next portion of the report that reads: I  
5 then investigated this further and found William Avery was  
6 listed as a suspect, and the individual that was arrested with  
7 him -- well, let me stop there. As a suspect. Can you explain  
8 to the jury what that means about finding out that he was a  
9 suspect?

10 A. I mean, being a suspect is just that -- you talking about  
11 the drug charge? Or does it matter?

12 Q. When you wrote this report, you say here that you'd done  
13 some investigation and found out that he was listed as a  
14 suspect. What do you mean by listed as a suspect? In what?

15 A. I guess a suspect is a term that, you know, either he -- he  
16 was out of custody, listed as a suspect, or he could be in  
17 custody and he's a suspect. He just hasn't been found guilty, I  
18 guess.

19 Q. And what charge was that in connection to? Or what crime?  
20 If you recall?

21 A. In the homicide.

22 Q. Okay. And where would you have found that kind of  
23 information, that he was listed as a suspect there?

24 A. Within our, I guess, database.

25 Q. And it goes on to state here the individual that was

1 arrested with him on this and for the drug charges was a Lorenzo  
2 Frost. Is that the first time you were aware of the name  
3 Lorenzo Frost?

4 A. Yes.

5 Q. And how did you become aware of that name?

6 A. Also listed within that database.

7 Q. Okay. The report goes on to state that you spoke with  
8 Assistant District Attorney Ronald Dague. Did you know  
9 Mr. Dague at that point?

10 A. I did.

11 Q. And how is it that you came to talk to him?

12 A. Just being in court and seeing him.

13 Q. And this document goes on to report that he stated he is the  
14 one who prosecuted Avery and Frost on the drug cases.

15 A. Yes.

16 Q. Is that what he told you?

17 A. Yes.

18 Q. Lieutenant, what I have put up on the screen there now is  
19 the first page of Exhibit 1021. And this had been previously  
20 discussed in some degree, in your testimony here. Do you  
21 recognize this document?

22 A. Yes.

23 Q. And this is the -- a subsequent report that you prepared  
24 with respect to another phone conversation that you had with the  
25 person later identified as Antron Kent, right?

1 A. Yes.

2 Q. With respect to -- and this report is dated August 20, 2002.  
3 Is that the date of the report at the top there?

4 A. Yes.

5 Q. And there's also a date on the second page there of  
6 8-20-2002. Can you explain to the jury why that date is there?

7 A. Our reports are dictated, and the person who typed it,  
8 whoever W-H-U is, would put their initials that they dictated it  
9 for me on that date.

10 Q. So it would -- it would actually be typed up on the 20th of  
11 August of 2002, right?

12 A. Yes.

13 Q. And on its face in the second paragraph of the report  
14 reports a contact on August 19th of 2002, right?

15 A. Yes.

16 Q. Now, just to be clear about this here, in that paragraph it  
17 relates or recounts that you have spoken to this contact on  
18 numerous occasions. Do you recall how many times you had spoken  
19 to Antron Kent between that July date in 2002 -- we just saw  
20 there, that was July 24th, and then this date in August here.  
21 August 19th?

22 A. As I testified before, it was over -- about 5 times. Around  
23 that.

24 Q. And the other occasions where you did speak to him but did  
25 not -- did you prepare any other reports on those occasions

1 except for these two?

2 A. No.

3 Q. And why is that?

4 A. There was nothing new to report. I don't have contact with  
5 him, so I wanted him to continue to call back so I can, you  
6 know, speak with him at some point, since I didn't -- I didn't  
7 have a way to call him. He had to call me.

8 Q. Okay. So when you say there's nothing new, what are you  
9 talking about, nothing new? What do you mean by that?

10 A. You know, like after the first call, I didn't know anything  
11 about this case. I didn't know if he'd call back and if he  
12 would even call back. That, you know, I'd tell him, you know,  
13 thanks for your time. You know, we're not investigating this  
14 anymore. Or, you know, I don't know what the results would be  
15 until I looked at the case.

16 Q. Okay. But in terms of nothing new, did -- in particular,  
17 did Antron Kent in any of those conversations where you didn't  
18 prepare a separate report tell you anything new about any  
19 conversations that he had with William Avery?

20 MR. ELSON: Objection, leading.

21 THE COURT: Well, it is. The Court will allow it.

22 MR. SMOKOWICZ: I can rephrase it, Your Honor.

23 Q. What, if anything, did Antron Kent tell you about any  
24 additional details of conversation that he might have had with  
25 Avery in any of those unreported conversations?



1 A. There was nothing of value that he didn't tell me that first  
2 time.

3 Q. Okay. Is it worthwhile preparing your report if someone  
4 goes through a conversation but just simply repeats basically  
5 what you've already heard?

6 A. I mean, it's already documented. We don't routinely  
7 document phone calls that, you know, come in.

8 Q. And do you routinely document if you have a conversation  
9 with a witness more than once, and you documented the first  
10 conversation, if that person just really -- just basically  
11 restates what he or she has already told you?

12 A. No, we don't do that.

13 Q. What substance was added in this conversation that would  
14 cause you to make a report of it here?

15 THE COURT: Which conversation?

16 MR. SMOKOWICZ: This conversation that's the subject  
17 of 1021. The August 19, 2002, conversation. Thank you, Your  
18 Honor.

19 THE WITNESS: He added the fact that the buddy that he  
20 was arrested with had owned a vehicle or used a vehicle to move  
21 a body. He also added the fact of a cellmate.

22 MR. SMOKOWICZ:

23 Q. And that would be what person?

24 A. That was Mr. Kimbrough. I think it was Jeffrey Kimbrough.

25 Q. On the second page there you do indicate in the report of

1 the August 19th conversation that you told Kent that two  
2 Detectives would probably be coming down to speak with him  
3 regarding this. And that Kent asked that you be one of the two  
4 Detectives. Do you have any recollection of why -- if he said  
5 why he wanted you to be one of the people going there?

6 A. It was just that -- it was probably a comfort thing. It's  
7 someone you talked to and it happens every now and then.

8 Q. In any of the numerous -- in any of the two documented  
9 conversations, or any of the conversations that you did not  
10 document, did you make any promises to Antron Kent about his  
11 sentence?

12 A. No. I would never do that.

13 Q. And why not?

14 A. I just -- I have never done that. It's not up to me to tell  
15 anyone anything like that. I don't make decisions like that. I  
16 always tell people just to put themselves in the best position  
17 possible.

18 Q. Okay. Do you have the power over -- of sentencing or  
19 resentencing over people who are in prison?

20 A. Do I have power? No.

21 Q. Who has the power to do that, to your -- based on your  
22 experience?

23 A. It would be the Judge.

24 Q. Now, on the first page of this report, Lorenzo Frost's name  
25 is in the -- towards the bottom there in parentheses. Why was

1 it put in parentheses? Do you have a memory?

2 A. Yeah. That's because he did not tell me a name of Lorenzo  
3 Frost. It's only reference to me doing the investigation  
4 paperwork-wise so the reader could understand who -- if they  
5 have a question, who the buddy was that -- his term -- you could  
6 reference that in a report.

7 Q. During any of these phone calls that you had with Antron  
8 Kent, did you make any threats to him?

9 A. No.

10 Q. During any of these phone calls with Antron Kent, did you  
11 supply any details of the homicide to him?

12 A. No.

13 Q. By the time of this last phone call on August 19th of 2002,  
14 had you become somewhat familiar with the Griffin homicide at  
15 that point?

16 A. Yes.

17 Q. Can you describe for the jury what -- how you became  
18 familiar. And if you have a recollection, the degree to which  
19 you are familiar with it at that point?

20 A. My degree of recollection is very basic. Looking up through  
21 our database on the computer. In 2002 we're talking -- I think  
22 there were like IBM computers. I don't -- if some of you guys  
23 remember the DOS systems. And so it's very basic information.  
24 It's nothing like today that you can get all Police reports.

25 Q. Had you actually gone to look at the Police reports at all

1 in this matter?

2 A. Eventually, yes. Eventually I had the homicide file. I  
3 don't recall to what degree I looked through the file. I know  
4 the supplement reports would be important to understand what was  
5 going on, and what part of the investigation, and where it was  
6 at.

7 Q. Okay. And do you recall reviewing any of those  
8 supplementary reports prior to this August 19th, 2002  
9 conversation?

10 A. I don't remember if I had the homicide file by that time or  
11 not. I did by the time I went down to Oklahoma.

12 Q. Okay. Now, with respect to traveling to Oklahoma, at that  
13 point -- strike that. This is in August of 2002. And I think  
14 you described for the jury before that at some point you moved  
15 over to this A.T.F. unit, is that right?

16 A. Yes.

17 Q. And when -- when were you moving to the A.T.F. unit?

18 A. Pretty much as soon as I got back from this. This was the  
19 end of things. I already knew I was leaving, getting  
20 transferred, and this was pretty much it.

21 Q. So did you expect to be pursuing this homicide investigation  
22 any further after you returned from Oklahoma in August of 2002?

23 A. No. I was told that I was not going to be part of that.

24 Q. And were you involved in making the arrangements to go to  
25 Oklahoma?

1 A. I was.

2 Q. And can you explain for the jury how it was arranged that  
3 you would be going to Oklahoma with -- turned out to be Captain  
4 Heier, right?

5 A. Yes.

6 Q. Were you -- before I get there, were you and Captain Heier  
7 partners at that time?

8 A. No, we were not.

9 Q. Do you recall how it is that you and Captain Heier ended up  
10 traveling to Oklahoma?

11 A. He was in the Homicide Unit, but we worked different shifts,  
12 and so we never worked together. But the supervisor in charge  
13 of the Homicide Unit I assume picked him. I don't know why or  
14 how that came about, but said he'd be going down with me.

15 Q. Okay. And now with respect to the arrangements in order to  
16 go to Oklahoma, can you describe for the jury -- you indicated  
17 you were involved in that. How did that happen?

18 A. This was done by the District Attorney's Office. They're  
19 the ones that authorize any kind of travel to do investigation.  
20 Also you are going to a prison out of State, so you do have to  
21 have contact with the prison. I had contact with the supervisor  
22 down in Oklahoma. Even though we're law enforcement, still got  
23 to be put on a visitor list and set up things that way.

24 Q. Okay. And did you make all of those arrangements? Or did  
25 somebody else make them for you?

1 A. I did the prison portion. As far as the D.A.'s Office, I  
2 was part of that. Not fully.

3 Q. How would that be done? Would that be done by you talking  
4 to some Assistant District Attorney? Or is there something in  
5 writing? Or how does that work?

6 A. Right. It would be speaking with the District Attorney, and  
7 then there's -- basically they authorize it, because there's  
8 travel expenses and stuff.

9 Q. And do you remember who you spoke to about this?

10 A. That would be Mark Williams.

11 Q. And in order to do this, did you provide any details to  
12 Mr. Williams?

13 A. From what I had. The Police reports.

14 THE COURT: All right. Mr. Smokowicz, we're going to  
15 take the morning break at this point. We'll pick it up at that  
16 point, ladies and gentlemen of the jury. Please don't discuss  
17 the case. We'll see you back here after the morning break.

18 (Whereupon the jury was excused at 10:56 a.m.)

19 THE COURT: Okay. Take about 15.

20 (Whereupon a recess was called by the Court. Upon  
21 conclusion of the recess, the proceedings continued as when the  
22 jury was returned to the courtroom at 11:21 a.m.:)

23 THE COURT: Mr. Smokowicz?

24 MR. SMOKOWICZ: Thank you, Your Honor.

25 Q. Lieutenant Armbruster, returning to the travel and the

1 interviews that you did in Oklahoma, what I put on the ELMO is  
2 Exhibit 1017, which is a handwritten statement of Antron Kent.  
3 You were present for this -- for the giving of the statement by  
4 Mr. Kent, right?

5 A. Yes.

6 Q. And do you recognize whose handwriting this is?

7 A. That is my handwriting.

8 Q. Okay. And there is a signature about four lines, five lines  
9 down. Whose signature is that?

10 A. Antron Kent.

11 Q. And was that signed in your presence?

12 A. Yes, it was.

13 Q. Just mechanically in terms of that signature, as opposed to  
14 the rest of the statement, and the first part of that paragraph  
15 there about Miranda warnings, how did that work in terms of your  
16 interview of Kent at that time? Was part of this done, and then  
17 all of it -- and then the rest of it done? How does that work?

18 A. Well, the first -- that first part is done -- as far as the  
19 Miranda, and that you're acknowledging the Miranda portion of  
20 it. The next portion is essentially the -- like background or  
21 pedigree information. And his signature is affixed to that  
22 also.

23 Q. So would that -- would like the first paragraph have been  
24 done, this paper was turned over to him, and then signed, and  
25 then similarly with the next paragraph?

1 A. The Miranda is always done and signed. The pedigree -- I  
2 don't recall as far as what -- as far as this was done. But  
3 that one, I will do either at the end or during.

4 Q. And who wrote this out for Kent?

5 A. I wrote that one.

6 Q. And then does his signature appear on this page -- little  
7 cut off here. I'll try the best, but Page 4 of 4. Does Kent's  
8 signature also appear on this?

9 A. Yes.

10 Q. Is that -- where is it on this page?

11 A. At the bottom of the page, right after the last sentence.

12 Q. Okay. And then there are two signatures below that?

13 A. Yes.

14 Q. And whose signatures are those? Do you recognize them?

15 A. It's Detective Heier, and then I assume mine. I can't see  
16 it on my screen.

17 Q. Oh, I'm sorry. That silly blue thing is there.

18 A. Yes.

19 Q. And whose is below Detective Heier?

20 A. That would be my signature.

21 Q. There are some times written?

22 A. Yes.

23 Q. What are the times written on the bottom of Page 4?

24 A. That would be 1:27 p.m. to 4:38 p.m.

25 Q. What is the significance of those two times?



1 A. That signifies the start of the interview time, and the end  
2 of the interview time.

3 Q. Other than writing out this statement, what role did you  
4 have in the interview?

5 A. Participating in the interview.

6 Q. Would you have asked all the questions? Some of the  
7 questions? None of the questions?

8 A. Some.

9 Q. And does this report -- have you had a chance to look at it  
10 before?

11 A. Yes.

12 Q. Does this statement truly and accurately recount the details  
13 that were provided to you by Antron Kent on that day back in  
14 August of 2002?

15 A. Yes.

16 Q. With respect to this statement, during the course of that  
17 interview did you make any promises to Antron Kent?

18 A. No.

19 Q. With respect to this statement, during the course of that  
20 interview did Detective Heier make any promises to Antron Kent?

21 A. No.

22 Q. Prior to this statement being taken, did you make any  
23 promises to Antron Kent?

24 A. No.

25 Q. Were you are aware of any contact between Detective Heier

1 and Antron Kent before this interview? Detective Heier, as  
2 opposed to you?

3 A. Correct. I -- no, not at all. He did not know him.

4 Q. With respect to threats, did you make any threats to Antron  
5 Kent during any of those phone conversations you had with him?

6 A. No.

7 Q. What about during this interview?

8 A. No.

9 Q. Did you provide any details to Antron Kent during this  
10 interview about -- that would -- that ended up in this  
11 statement?

12 A. No, I did not.

13 Q. Okay. Now, there is a reference in here, and you've seen  
14 it -- and let's talk about it. On Page 2 right above where my  
15 pen is and it reads: His guy is the same guy that he got  
16 arrested with on a drug charge. Lorenzo sounds familiar. First  
17 of all, is that your handwriting?

18 A. Yes, it is.

19 Q. Okay. Do you have any recollection of how the name Lorenzo  
20 came up in this context?

21 A. Yes.

22 Q. Would you please describe that for the jury?

23 A. Lorenzo came up as far as when we were asking about his guy,  
24 Antron couldn't recall any name. So we gave him several names  
25 during the interview, just randomly. Like do you know Jeff, do

1 you know Terrence, do you know -- and when you say Lorenzo, he  
2 said that sounds familiar. And you go on to other names. It's  
3 almost like a photo identification, if you will. You've got one  
4 person you're interested in, but yet you surround them with, you  
5 know, pictures of 5 more people so it gives an unbiased  
6 recollection.

7 Q. At any point during the course of this interview did Antron  
8 Kent indicate any interest with respect -- or any concerns with  
9 respect to his cooperation and the prison sentence that he was  
10 serving at that time?

11 A. Did he ask -- did he have an interest?

12 Q. Yes.

13 A. Yes, he did.

14 Q. What do you recall him telling you?

15 A. I mean, he wanted a -- he wanted to get credit for, you  
16 know, information to get time off on his sentence.

17 Q. And what did you tell him about that?

18 A. That I wouldn't make any guarantees. That you put yourself  
19 in the best position you can. I mean, to be honest, it was  
20 Antron Kent. And I really -- the crime he committed, I really  
21 could have cared less. I think he should have not gotten  
22 anything off, but that's just my personal opinion.

23 Q. With respect to witnesses in general, in your experience in  
24 law enforcement do witnesses other than jailhouse informants  
25 have motivations sometimes?

1 A. Yes.

2 Q. And can you describe for the jury some of the motivations  
3 you've encountered that people may have when you talk to people  
4 about various crimes?

5 A. Some motivations -- when you come to -- could be motivated  
6 by money. Some informants are paid to do things. Some  
7 informants would like, you know, assistance in, you know,  
8 warrants. Or some reduction in sentence. Some informants might  
9 have some type of motive of, you know, retaliation. Or getting  
10 back at someone. It's just -- just trying to figure out what  
11 the motivation of informants are. Jailhouse informants?  
12 They're don't have really a money motivation. Some of them  
13 actually might want you to put money on their books, you know,  
14 so they can buy cigarettes or something of that nature. But  
15 most of jailhouse are attempting to get some type of  
16 consideration in a sentence reduction or modification.

17 Q. And in this situation did you make any promises to do  
18 anything to try to help Antron Kent?

19 A. No, I did not.

20 Q. I'll now put on the monitor here the first page of what's  
21 been marked as Exhibit 1018. Do you recognize this as the  
22 statement that you prepared with respect to Jeffrey Kimbrough?

23 A. Yes.

24 Q. And with respect to Kimbrough's statement, can you -- do you  
25 recognize whose handwriting that is? That is the body of the

1 statement?

2 A. That's also my handwriting.

3 Q. So as with Antron Kent, did you write this out?

4 A. Yes, I did.

5 Q. And then did you -- strike that. Before we go any further  
6 with respect to Antron Kent's statement, before he signed it  
7 what, if any, steps did you do to make sure that he agreed with  
8 it?

9 A. It was read back in its entirety to him. It was explained  
10 to him that if there was any corrections or changes that needed  
11 to be made, it is his statement. It's not my statement.

12 Q. With respect to Mr. Kimbrough what, if anything, did you  
13 tell him before he signed it?

14 A. Same -- same thing. The same response.

15 Q. Okay. And was he -- you read the report to him and he  
16 listened to it?

17 A. Yes. I would read it back to him, and it would be in the  
18 presence of him. That he can read along.

19 Q. And do you remember -- you wrote this out as well. Do you  
20 remember whether you asked any questions during the course of  
21 that interview?

22 A. Some.

23 Q. Did Mr. Kimbrough ask you for any kind of assistance and any  
24 kind of promises?

25 A. No. I don't recall that.

1 Q. And did you make any promises to him?

2 A. No.

3 Q. What about threats? Did you threaten Mr. Kimbrough at all  
4 during his interview?

5 A. No. No.

6 Q. And what about facts? Did you provide him with any facts?

7 A. No.

8 Q. During both of these interviews was there anybody else  
9 present aside from Mr. Kent and Mr. Kimbrough?

10 A. Yes.

11 Q. Who would that be?

12 A. Detective Heier.

13 Q. Did he make any promises, threats, or give any details to  
14 Kent during the interview with him?

15 A. No.

16 Q. What about with respect to Kimbrough. Did Detective Heier  
17 make any promises, threats, or provide any details?

18 A. No, he did not.

19 Q. At the bottom of the Exhibit that's on the screen there,  
20 1018, Exhibit 1018, on the bottom of the third page that's  
21 displayed on that screen there are some times there again,  
22 right?

23 A. Yes.

24 Q. What are the times?

25 A. 12:17 p.m. and 1:33 p.m.

1 Q. What are the significance of those times?

2 A. The start and ending time of the interview.

3 Q. So this is about an hour and 15 minute long interview, is  
4 that right?

5 A. Yes.

6 Q. Okay. Did you have a chance to interact with Jeffrey  
7 Kimbrough during that interview?

8 A. Yes.

9 Q. Did he appear to you to be able to answer your questions?

10 A. Yes.

11 Q. Did he appear to you to have recall of the events?

12 A. Yes.

13 Q. With respect to what's shown on the screen now on the first  
14 page, from 1018, this is a listing of what you referred to as  
15 the pedigree, right?

16 A. Yes.

17 Q. And it lists a father's name, address, mother's name,  
18 address, and three brothers and either address or city in which  
19 they live, right?

20 A. Yes.

21 Q. And ages, of course?

22 A. Yes.

23 Q. Where did you get that information from?

24 A. From Mr. Kimbrough.

25 Q. Did he have any problems remembering parents' names,

1 siblings, ages, that sort of thing?

2 A. No.

3 Q. This last document that's on the screen is Exhibit 1020 --  
4 1019. Do you recognize that document?

5 A. Yes.

6 Q. What is it?

7 A. That is the interview with William Avery, and that is in the  
8 handwriting of Detective Heier.

9 Q. Do you remember having any role in this interview with  
10 Mr. Avery?

11 A. Yes.

12 Q. What did you do there?

13 A. I was present in the interview. Taking part in the  
14 interview.

15 Q. Did you ask him any questions? Do you want to review that  
16 for a minute?

17 A. I can't read that.

18 Q. Let me show you this. My question was do you recall what  
19 part, if any, you played -- or role that you played in the  
20 interview of William Avery?

21 A. Just speaking to him with -- interviewing him with Detective  
22 Heier.

23 Q. Okay. And do you recall him at some point wanting to leave  
24 the room?

25 A. Yes.



1 Q. And was he allowed to leave the room?

2 A. At the end, yes.

3 Q. And how did that happen? How did it take place?

4 A. He was done with the interview, and it was -- I got up to  
5 ring the buzzer to let him out. Or to get a guard, I should  
6 say. Not to let him out, but he got to the door prior to me and  
7 was let out into the hallway area.

8 Q. And that's how things came to an end?

9 A. Yes. It was -- to describe it, it was in a room this size.  
10 You know, with a desk here. So there was quite a -- it was in  
11 their library area. So there was quite a distance to the door.  
12 And I remember that, because I -- you're in a prison. You're a  
13 guest in the prison. And he walked out into the hallway without  
14 the guard, and I kind of thought all right, this is -- I'm going  
15 to get in trouble for letting him out into the population. But  
16 the guard said it was fine. He knew where to go, so --

17 Q. And the time spent there was from 1:40 in the afternoon  
18 until 3:10 in the afternoon?

19 A. Yes.

20 Q. During the course of that interview did you make any threats  
21 to Mr. Avery?

22 A. No.

23 Q. Did you strike him in any way?

24 A. No.

25 Q. Did you use any kind of force against him?

1 A. I did not.

2 Q. Did you -- for want of a better word, put any words in his  
3 mouth here with respect to this statement?

4 A. I did not.

5 Q. How about Detective Heier during this time? Did he make any  
6 threats?

7 A. No.

8 Q. Did he employ any force against William Avery?

9 A. No.

10 Q. And to the best of your recollection, looking at this  
11 statement, did he put any -- did he truthfully and accurately  
12 recount what Avery did in that statement?

13 A. Yes.

14 Q. Lieutenant, after these three interviews you traveled back  
15 from Oklahoma to Wisconsin, right?

16 A. Yes.

17 Q. And did you have any further involvement in the matter after  
18 that? In the investigation of Maryetta Griffin's homicide?

19 A. I did not.

20 Q. And did you even have the opportunity to talk to the  
21 District Attorney, Mr. Williams, afterwards about how the  
22 interviews went?

23 A. Detective Heier did that.

24 Q. So you did not even have a role in that at all, is that  
25 right?

1 A. Yes.

2 Q. All right. That's all the questions I have. Thank you.

3 THE COURT: Cross examination.

4 **CROSS EXAMINATION**

5 **BY MR. ELSON:**

6 Q. Lieutenant Armbruster, you just testified on direct  
7 examination about this interview with Antron Kent in Oklahoma,  
8 where -- and particularly about the portion of your report which  
9 shows that you suggested the name Lorenzo to him. Do you recall  
10 that testimony?

11 A. Yes.

12 Q. And you just testified that in addition to the name Lorenzo,  
13 you suggested other names to him. And I think you said you  
14 suggested the names Terrence and Jeff to him?

15 A. I was just throwing that out. I don't know exactly if  
16 that's it.

17 Q. But you recall your testimony that you have a recollection  
18 of giving Mr. Kent other names besides Lorenzo during that  
19 meeting. That's what you testified to, right?

20 A. That is correct.

21 Q. Remember giving a deposition in this case?

22 A. Yes.

23 Q. And you were sworn to tell the truth during that deposition?

24 A. Yes.

25 Q. This is Page 128.

1 MR. SMOKOWICZ: Just a second.

2 MR. ELSON:

3 Q. 128, line 17. Question: Okay. A couple sentences down it  
4 looks like it says, quote, Williams said he had a spot with his  
5 guy selling dope. The guy is the same guy that he got arrested  
6 with on a drug charge. Lorenzo sounds familiar. End quote. Do  
7 you see that part of the statement? Answer: Yes. Question:  
8 Did you convey to Mr. Kent the name Lorenzo? Because it says  
9 here Lorenzo sounds familiar. Answer: I'm not sure if I did or  
10 Detective Heier did, but Mr. Kent was telling that portion of  
11 the story to us about this guy that he got arrested with. Drug  
12 charges. I recall him like thinking what was -- like he  
13 remembered the name, but couldn't remember to us. Question: So  
14 somebody, you or Detective Heier, gave him the name? Answer:  
15 Yeah, they mentioned it, yes. Question: Did you give him any  
16 other names? Answer: Not that I can recall. Question: Okay.  
17 Did you test him by giving him a different name than a real name  
18 to see if he was telling the truth? Answer: I can't recall. I  
19 know I do that with other individuals. Question: Did you do it  
20 here? Answer: I don't recall if I did that on this one or not.  
21 Do you remember giving those answers to those questions?

22 A. Yes.

23 Q. But now you're coming into court and saying you do remember  
24 that he -- that you gave him other names?

25 A. That is correct.

1 Q. You also testified on direct examination that you didn't  
2 remember whether you reviewed the Maryetta Griffin homicide file  
3 prior to your August 19th, 2002, phone conversation with Antron  
4 Kent. Do you remember that testimony?

5 A. Today? Yes.

6 Q. Today.

7 A. Yes.

8 Q. This is deposition Page 42. Starting at line 19. Question:  
9 What did you do after the phone call with Mr. Kent? This phone  
10 call? What did you do next with the information that he  
11 provided? Answer: Tried to research and figure out what crime  
12 he was talking about. Question: How did you research what  
13 crime he was talking about? Answer: There are -- I went  
14 through a database where you put in different criteria. I  
15 believe it was just having the Avery name pop up in the  
16 database. Question: Okay. What information do you recall  
17 reviewing from the database when you put in Mr. Avery's name?  
18 Answer: I believe then it went to this current case, Maryetta  
19 Griffin. Question: Did you pull up Police reports in the  
20 Griffin homicide investigation? Or what information did you  
21 pull up? Answer: I'm sure -- I don't know if I did it now in  
22 your time frame. I don't know if I did that all that day,  
23 because I was getting off. I might have done it the next day or  
24 next couple days. But yes, I would have looked, reviewed the  
25 Police reports that were associated with that case. Question:

1 What Police reports do you recall reviewing that were associated  
2 with the Griffin homicide? Answer: It would be whatever is in  
3 our Police file. Do you remember giving those answers in  
4 response to those questions?

5 A. Yes.

6 Q. And those questions were about what you did after that first  
7 phone call with Mr. Kent that occurred on July 24th, 2002,  
8 right?

9 A. Yes.

10 Q. And your first contact with Kent by phone was July 24th,  
11 2002. We went over that. And you wrote a report about that  
12 conversation, right?

13 A. Yes.

14 Q. And it's been established that between July 24th, 2002, and  
15 August 19th, 2002, you had numerous conversations with Kent,  
16 right?

17 A. Yes.

18 Q. And it's also been established that you didn't write any  
19 reports about these numerous conversations, right?

20 A. Correct.

21 Q. And on direct examination you told Mr. Smokowicz that the --  
22 one of the reasons or the reason you didn't write any reports  
23 recording these numerous contacts you had with Mr. Kent, because  
24 there was nothing of value that he didn't tell you in the first  
25 conversation you had with him. Do you recall telling that to

1 the jury?

2 A. Yes.

3 Q. But isn't it true that in your initial conversations that  
4 you had with Kent that he told you he was doing this to get a  
5 reduction in his sentence?

6 A. Yes.

7 Q. And, in fact, you asked him in these initial conversations  
8 why are you doing this? And he told you it was to get a  
9 reduction in his sentence, right?

10 A. He did mention it.

11 Q. And you didn't put that in any of your reports, did you?

12 A. He's an informant. That's what they do.

13 Q. Okay. Well, isn't that important information, the fact that  
14 this man was telling you that the reason he was doing this was  
15 to get a reduction in his sentence?

16 A. We wouldn't document informant information like that.

17 Q. You wouldn't document the fact that he told you that the  
18 reason he was doing this was to get a reduction in his sentence?  
19 That's your testimony?

20 A. They're informants. They're -- that's why we don't put  
21 their name in the report. That's the whole --

22 Q. His name is in the report eventually, isn't it?

23 A. When we went and talked to him, correct.

24 Q. Yes. And when you talked to him, he told you and Detective  
25 Heier, who was there, that the reason he was doing this was to

1 get a reduction in his sentence. He said that again to you,  
2 didn't he?

3 A. Down there? Yes.

4 Q. Yes. That was the second time he told you that, right?

5 A. What do you mean?

6 Q. He told you that in the initial phone conversations that you  
7 had with him, didn't he?

8 A. Yes.

9 Q. And he told it to you again when you met with him in  
10 Oklahoma?

11 A. Correct.

12 Q. And Detective Heier was present at that meeting with you  
13 when he told you that?

14 A. Yes.

15 Q. And there is nowhere in any of your reports, including that  
16 report of your interview with him in Oklahoma, did you document  
17 the fact that he told you that he was doing this to get a  
18 reduction in his sentence, did you?

19 A. No, you're correlating the informant being him. A lot of  
20 times when you document an informant, you now know what the  
21 bigger picture is. That the informant is Antron Kent. But when  
22 you say you have an informant, that's the whole part of being  
23 anonymous. And as you go down there, I never referred to him as  
24 the informant, Antron Kent. I just went and talked to Antron  
25 Kent.



1 Q. Well, whether you referred to him as the informant or not,  
2 is not what I'm getting at. What I'm getting at --

3 A. Well, it's important.

4 Q. Well, what I'm trying to establish is that you never  
5 documented in any of your reports your first conversation with  
6 him, your second conversation with him, or your interview with  
7 him in Oklahoma that he had said to you that the reason he's  
8 doing this is to get a reduction in his sentence. You didn't  
9 document that, did you?

10 A. No. That's what I'm telling you.

11 Q. You didn't, right?

12 A. We would not put that in there. I'm telling you, I would  
13 not put informant stuff in there.

14 Q. Okay. And you don't think that that was important  
15 information to include in your Police report?

16 A. No.

17 Q. Isn't that information that Mr. Avery could have used to  
18 defend himself in the criminal case?

19 MR. SMOKOWICZ: Objection. Calls for speculation.  
20 It's argumentative at this point. Also calls for a legal  
21 conclusion.

22 THE COURT: Yeah, the Court will sustain the  
23 objection.

24 MR. ELSON:

25 Q. Sir, do you know what impeachment evidence is?

1 MR. SMOKOWICZ: Same objection, Your Honor.

2 THE COURT: He can answer, if he knows.

3 THE WITNESS: Impeachment is when someone testifies  
4 one way, but you have information saying against. Is that  
5 close?

6 MR. ELSON:

7 Q. Sure. In a criminal trial it's important for a Defendant to  
8 be able to impeach witnesses who testify against him, isn't it?

9 A. Yes.

10 Q. And so if a Defendant has information that he could use to  
11 impeach a witness at his criminal trial, that would be important  
12 information for the Defendant, right?

13 A. And I would bring it up, then, too. That would help.

14 Q. And you know that you have an obligation as a Police  
15 Officer, that when you receive impeachment evidence from a  
16 witness that you interview, you have to document that. You have  
17 to include it in your Police report, right?

18 A. I'm not understanding -- I don't -- I think we disagree on  
19 that, but --

20 Q. Okay. So it's your understanding that if you interview a  
21 witness and they provide you with information that you would  
22 consider to be impeachment information, you don't have to  
23 document that in a Police report?

24 A. You're saying document. I'm disagreeing with that. I say  
25 no.

1 Q. Okay. You understand that your Police reports are turned  
2 over to the prosecutor, and then in turn turned over to the  
3 Defendant, right?

4 A. Yes.

5 Q. So the Defendant is able to read your Police reports and  
6 find out what information you received from witnesses that you  
7 interviewed, right?

8 A. Correct.

9 Q. And if there were impeachment evidence contained in your  
10 Police report, that's something that the Defendant could use to  
11 defend himself at trial, isn't that right?

12 A. Yes. In this case you're talking about as being an  
13 informant. Impeachment evidence.

14 Q. Yes.

15 A. And that's -- and I have been involved in that.

16 Q. I think you answered my question.

17 A. Okay.

18 Q. Do you recall -- you testified under direct examination that  
19 you were involved in the Violent Crimes Detective Unit in '97  
20 and '98, is that right?

21 A. Yes.

22 Q. Do you recall investigating a case where -- involving Walter  
23 Ellis in 1998?

24 MR. SMOKOWICZ: Objection. Relevance.

25 THE COURT: Yeah. Sustained.

1 MR. ELSON: No further questions.

2 THE COURT: Redirect.

3 **REDIRECT EXAMINATION**

4 **BY MR. SMOKOWICZ:**

5 Q. Lieutenant, in that first report of that phone  
6 conversation -- in fact, in that second report of the subsequent  
7 phone conversation, did you include Antron Kent's name in there?

8 A. In the second?

9 Q. In the reports. The typewritten reports, as opposed to the  
10 -- here, just -- let's take this first one here. This is  
11 Exhibit 1020. How did you refer to Antron Kent in this  
12 document?

13 A. As an inmate.

14 Q. Okay. And did you refer to him by name?

15 A. No.

16 Q. What did you indicate about his name, one way or the other?

17 A. I indicated that he would like to remain anonymous for now.

18 Q. Going forward in time, if you would put Antron -- not put  
19 Antron Kent's name in there but put in that an inmate from  
20 Sayre, Oklahoma, originally from Milwaukee, serving a 38 year  
21 sentence on mayhem contacted me, would that kind of information  
22 be useful even if you tried to keep him anonymous? For someone  
23 to identify who that is?

24 MR. ELSON: Objection to the form.

25 THE COURT: I think it can be rephrased.

1 MR. SMOKOWICZ:

2 Q. Okay. Let me rephrase the question. In your experience  
3 would providing detailed information about an inmate's  
4 whereabouts, terms of sentence, and home address -- would that  
5 kind of information -- would it be possible for someone to be  
6 able to identify that person?

7 A. That would, yes. And it would -- well, yes. It would  
8 defeat the whole purpose of them being anonymous.

9 Q. And drawing your attention to 1021, is there also a  
10 reference in there as to whether or not he wanted to be named?

11 A. Yes, there's -- I wrote in there that he would like to  
12 remain anonymous.

13 Q. So once again, if you had put in a statement to the effect  
14 of this anonymous person wants assistance with a mayhem  
15 conviction for 38 years, and other details like that, would that  
16 kind of information, if this went nowhere, be -- unfortunately  
17 allow a person who's anonymous to be discovered?

18 A. How did you word that question?

19 Q. Everybody --

20 A. Putting a name to the report at this time would defeat the  
21 purpose of remaining anonymous.

22 Q. And similarly, identifying information of any kind, would  
23 that defeat the purpose?

24 A. Yes.

25 Q. And why would someone contacting you from prison want to

1 remain anonymous?

2 A. Because they don't want other people, inmates knowing. I  
3 mean, they are locked up in the same area with them. Could  
4 be -- could turn out badly for them.

5 Q. Now, in your experience in law enforcement have you had  
6 other occasions where you've obtained information from some type  
7 of informant?

8 A. Yes.

9 Q. And in those situations have you been questioned about their  
10 motives as well?

11 A. Have I questioned them?

12 Q. No. Have you been questioned by defense counsel, let's say,  
13 for example?

14 A. Yes, I have.

15 Q. So based on the your experience, are defense counsel  
16 knowledgeable as to a motivation that a jailhouse informant  
17 might have?

18 MR. ELSON: Objection. Relevance. Form. Leading.

19 THE COURT: Well, it goes to the examination relative  
20 to the impeachment, so the Court will allow the answer, if he  
21 can answer.

22 THE WITNESS: I have -- yes, I do know. I have  
23 testified based on informants. There's different hearings just  
24 for informants, also.

25 MR. SMOKOWICZ:

1 Q. And are lawyers, in your experience, aware of the kind of  
2 motivation that a jailhouse informant might have?

3 A. Yes.

4 Q. Lastly, with Exhibit 1017 here, there's a reference on the  
5 last page to promises. Would you restate that? Or would you  
6 just read that for the jury, please?

7 A. Detective Armbruster and Detective Heier made no promises to  
8 Antron regarding a decrease in sentence or a promise to get out  
9 of jail, let alone any promises.

10 Q. Is that true?

11 A. That is very true.

12 MR. SMOKOWICZ: That's all I have.

13 THE COURT: Recross of that redirect?

14 **RECROSS EXAMINATION**

15 **BY MR. ELSON:**

16 Q. You were just answering some questions about impeachment  
17 evidence. Are you aware that Mr. Kent testified at Mr. Avery's  
18 criminal trial, and that he was in fact asked these questions  
19 and gave these answers? This is Exhibit 20, which is in  
20 evidence.

21 A. I'm not aware of that.

22 Q. I'm going to read them to you.

23 MR. SMOKOWICZ: Your Honor, I would object. Lack of  
24 foundation here.

25 THE COURT: Well, if it's already in evidence, there

1 doesn't need to be any foundation.

2 MR. ELSON: Thank you, Judge.

3 Q. Question: Do you expect any benefit from this? Answer:

4 No. Question: Then why are you telling the jury this today?

5 And why did you tell the Police this? Answer: Because from the

6 simple fact that -- I mean, I'm trying to change my life, which

7 I've done. And when he told me this, I really thought it was a

8 joke. But after finding -- learning what I knew, he ended up

9 saying it was true, basically. And I decided then I'd be

10 willing to come to Court and tell what I know. What he'd said

11 to me.

12 That was the testimony of Antron Kent at William

13 Avery's criminal trial. He didn't say anything about the reason

14 he's doing this is to receive a benefit and get a reduction in

15 his sentence, did he?

16 A. I wasn't there.

17 Q. And if Mr. Avery's -- if Mr. Avery had a Police report that

18 said that Mr. Kent had said those things to you, he could have

19 used that to impeach Mr. Kent on that testimony, couldn't he?

20 MR. SMOKOWICZ: I'm going to object to the form.

21 Question calls for speculation.

22 THE COURT: No. He can answer, if he can.

23 THE WITNESS: I guess I wasn't even aware of this at

24 all.

25 MR. ELSON:



1 Q. The question is he could have used your Police report if it  
2 said that Antron Kent told you that the reason he was doing this  
3 was to receive a reduction in his sentence. He could have used  
4 that as impeachment evidence against Mr. Kent at trial based on  
5 those questions and answers, right?

6 A. If I had put that in the report.

7 Q. Yes.

8 A. Which I wouldn't have.

9 MR. ELSON: Okay. No further questions.

10 THE COURT: Anything else of this witness?

11 MR. SMOKOWICZ: Yes, Your Honor.

12 **REDIRECT EXAMINATION**

13 **BY MR. SMOKOWICZ:**

14 Q. Later on in that same testimony at Page 64 I'm going to ask  
15 you -- I know you said you weren't present, but I'm going to ask  
16 you to assume the following questions were asked by Mr. Avery's  
17 lawyer, and the following answers were given by Mr. Kent.

18 Question: Mr. Kent, you said you weren't expecting any benefit  
19 from this cooperation? Answer: No. Question: Anybody offer  
20 you -- ever offer you any benefits? Answer: No, sir. Did you  
21 offer Antron Kent any benefits?

22 A. No.

23 Q. Did you -- what, if anything, did you -- did you take any  
24 steps to make it clear that you wouldn't be able to give him any  
25 benefits?

1 A. Yes.

2 MR. ELSON: Objection. Outside the scope.

3 THE COURT: It is outside the scope, so sustained.

4 MR. SMOKOWICZ: No further questions, Your Honor.

5 MR. ELSON: Nothing else.

6 THE COURT: Okay. You may step down, Lieutenant  
7 Armbruster. Now we'll take a break for lunch, ladies and  
8 gentlemen. So we'll have you back here -- we'll keep the  
9 customary hour, so 1:10. Don't discuss the case. We'll see you  
10 back here after lunch, okay?

11 (Whereupon the jury was excused at 12:06 p.m.)

12 THE COURT: Okay. 1:10.

13 (Whereupon a recess was called by the Court. Upon  
14 conclusion of the recess, the proceedings continued as follows  
15 when the jury returned to the courtroom at 1:20 p.m.):)

16 **DETECTIVE KATHERINE SPANO**, recalled as a witness,  
17 having been previously sworn, on oath testified as  
18 follows:)

19 THE COURT: Officer Spano, you've previously been  
20 placed under oath, and that oath still applies.

21 THE WITNESS: Yes, sir.

22 THE COURT: Miss Yuan?

23 MS. YUAN: Thank you, Your Honor.

24 **DIRECT EXAMINATION**

25 **BY MS. YUAN:**

1 Q. Good afternoon, Detective Spano.

2 A. Good afternoon.

3 Q. Detective, I was hoping you could tell the jury a little bit  
4 about your background. Where are you currently employed?

5 A. I'm employed with the Milwaukee Police Department in the  
6 Homicide Unit. The Cold Case Unit.

7 Q. And when did you begin with the Milwaukee Police Department?

8 A. In 19 -- January of 1988.

9 Q. And when you started with the Milwaukee Police Department,  
10 can you tell the jury your progression in terms of rank and  
11 position?

12 A. Sure. I was a uniform Officer on patrol in District Number  
13 3 from January of 1988 until June of 1994. I was then promoted  
14 to Detective in 1994, and I've held that position since.

15 Q. So as a uniformed Officer, what kind of cases were you  
16 handling or responding to?

17 A. Just about everything. As a uniformed Officer, Patrol  
18 Officer, you respond to everything. Do a lot of traffic stops,  
19 conduct any kind of call for Police service during that time.  
20 Domestic violence, shootings, burglaries. We would be the first  
21 responding Officer to those incidences.

22 Q. And you said you were promoted in 1994 to the position of  
23 Detective. How were you promoted?

24 A. Well, you have to take a written test, for the -- take a  
25 Detective exam, a written test. You have to pass an oral exam

1 and oral interview. And then you're ranked according to your  
2 test scores.

3 Q. And once you were promoted to Detective, what kind of cases  
4 were you handling once you first went to the Detective Bureau?

5 A. When I was first assigned to the Detective Bureau, I worked  
6 in the Robbery Unit. I worked there for just a few months. I  
7 think maybe 4 months. From there I was transferred to the  
8 Violent Crimes Unit. I was there for maybe another 8 -- 8  
9 months. And from there I went to the Homicide Unit.

10 Q. So how many different units were there within the Detective  
11 Bureau?

12 A. There's quite a few. At least at that time there was quite  
13 a few. I mean, there was an Arson Unit. There was a Sensitive  
14 Crimes Unit. The Unit that handles sexual assaults and crimes  
15 against children. There was a crimes against -- well, Violent  
16 Crimes is crimes against person. But there was a Gold and  
17 Silver Unit. There was a Burglary Unit, Robbery Unit. Again,  
18 violent crimes, homicide. There were quite a few.

19 Q. Can you tell me what year you were in the Homicide Unit for  
20 the Detective Bureau?

21 A. I started in the -- I believe it was the summer of '95 that  
22 I was transferred to the Homicide Unit. And I've been there  
23 technically ever since. In 2007, late 2007 myself and my  
24 partner at that time, Detective Gilbert Hernandez, were assigned  
25 to a Cold Case Homicide Unit.

1 Q. So once you were assigned to the Cold Case Unit, did you  
2 only exclusively worked on cold cases?

3 A. For the most part. For the most part, in the beginning we  
4 were working just on cold cases. Just unsolved homicides. In  
5 the recent past, because of the workload, and staffing cuts, and  
6 retirements, I've been called in to do some new investigations.  
7 But not too many.

8 Q. And then just backing up a little bit more so we can get an  
9 understanding of your background, where were you born?

10 A. I was born in Eau Claire, Wisconsin.

11 Q. And where do you currently live?

12 A. I live in Milwaukee.

13 Q. Have you always lived in Wisconsin?

14 A. Yes. When my family -- when I was about 2, my family moved  
15 down to the Eagle, Mukwonago area out in Waukesha County. I  
16 grew up there, mostly out in the country.

17 Q. Where did you go to high school?

18 A. Mukwonago High School.

19 Q. And when did you graduate?

20 A. 1968.

21 Q. And I know we talked about your employment history with the  
22 Milwaukee Police Department. Did you have other employment  
23 history prior to beginning with the Milwaukee Police Department?

24 A. Yes. If my mind -- going backwards. Prior to the Milwaukee  
25 Police Department I worked for the State of Wisconsin. I was a

1 Court Reporter in the Court system here in Milwaukee. I did  
2 that for maybe 8, 9 years. Prior to that I worked at some  
3 different companies throughout Milwaukee. I worked for the  
4 Teledyne Corporation as a secretary. Just before that I went --  
5 or I'm sorry, just after Teledyne is when I -- around that time  
6 I worked at Teledyne -- I want to say in '76, I quit there. I  
7 had a son, my second child, and went back to school to go to be  
8 a Court Reporter. Prior to Teledyne I think I worked at Alverno  
9 College as a secretary for a few years. Prior to that, I think  
10 right out of high school, I worked for a company called  
11 Harnischfeger Corporation as a secretary. That's here in West  
12 Milwaukee. I did that for a couple of years.

13 Q. And did you have any other schooling after graduating from  
14 high school?

15 A. I did some -- well, I went to -- obviously to school for  
16 court reporting. I also took some police science classes at  
17 M.A.T.C. throughout the course of -- while I was working as a  
18 Court Reporter and had the goal to get onto the Police  
19 Department.

20 Q. And turning your attention now to your time when you were  
21 with the Homicide Department --

22 A. Yes.

23 Q. Did you have a regular partner?

24 A. Yes.

25 Q. And who was that?

1 A. My -- the partner I had most of my -- the time in the  
2 Homicide Unit was Detective Gilbert Hernandez. We became  
3 partners I want to say October of '95. I went to the Homicide  
4 Unit first. I was there for a couple of months and Detective  
5 Hernandez came shortly after me.

6 Q. Now, prior to testifying today, did you have an opportunity  
7 to review any Police reports concerning homicides of female  
8 prostitutes in Milwaukee between the years of 1979 and 2007  
9 involved with drug use?

10 A. Yes, I did.

11 Q. Detective Spano, I'm going to show you what's been marked as  
12 Plaintiff's Exhibit Number 4. It's actually a two page  
13 document. I don't know if you've been shown this before. It  
14 has been shown in court. You see it's Exhibit Number 4 here.  
15 But this is the first page, and I'm going to zoom out. See if  
16 we can get this whole map on the screen. But I want to show you  
17 the second page first. You can see from the second page this  
18 appears to be a timeline, and it spans from 1986 to 2007. Do  
19 you see that?

20 A. Yes, I do.

21 Q. And actually my question before -- so you actually before  
22 testifying today were able to review homicides involving female  
23 prostitutes and drug -- involved in drug use actually going back  
24 even further than 1986?

25 A. Yes. That was a big portion of the work that Detective

1 Hernandez and I did, especially when we first came to the Unit.

2 So yes, I did do that recently also.

3 Q. Showing you now the map. So the first page of Exhibit 4. I  
4 don't know if you can tell, there's actually -- the victims are  
5 on the sides there, both on the left and the right. That there  
6 are actually 10 victims and 10 stars that's on this map. I'm  
7 not sure if you can -- might be a little hard to see, but --

8 A. I can see them, yes.

9 Q. Okay. And again I believe this map is supposed to represent  
10 the span from 1986 to 2007. And these are all the women that  
11 had D.N.A. linked to Walter Ellis?

12 A. Yes. These are Walter Ellis's victims, yes.

13 Q. And you're familiar with that fact?

14 A. Yes.

15 Q. Can you tell the jury, based on reviewing reports and your  
16 own memory, if there were other homicides of female prostitutes  
17 involved in drug use from the span of 1979 to 2007 that you  
18 could add to this map?

19 A. Yes, there are.

20 Q. About how many?

21 A. I would say probably another 24, 25 approximately.

22 Q. And of those 24, 25, those are additional victims that you  
23 would add to this map?

24 A. Yes.

25 MS. HOFT: Objection to form.



1 MS. YUAN:

2 Q. Are those -- are those -- are those 24, 25 additional  
3 victims -- do you know where their bodies were found?

4 A. Yes. General. General.

5 Q. Generally?

6 A. Generally, yes.

7 Q. Where would that be?

8 A. Well, I would say approximately 21 of them were on the north  
9 side. Maybe 3 or 4 may have been on the south side of  
10 Milwaukee.

11 Q. And in looking at this map here, is this a map of the north  
12 side?

13 A. This is a map of a portion of the north side, yes.

14 Q. So then would there be an additional 21 stars that you could  
15 add to this map on the north side?

16 A. Yes.

17 MS. HOFT: Objection. Mischaracterizes this witness's  
18 testimony.

19 THE COURT: Well, the question would have to be  
20 phrased would this portion of the north side -- question was  
21 asked whether it was the north side. It can be re-asked.

22 MS. YUAN:

23 Q. Of the 21 additional victims that you had mentioned  
24 involving a prostitute involved in drug use, that their bodies  
25 were found on the north side, would they be -- would those

1 additional 21 stars -- could they be added to this map of the  
2 north side?

3 A. Probably an additional 18, maybe. Probably an additional 18  
4 to this map.

5 Q. Now, generally speaking, then, of the 24 to 25 female  
6 homicide victims that were involved in prostitution and drug use  
7 from 1979 to 2007, in addition to the 10 that were linked to  
8 Walter Ellis, of those 24 to 25 was D.N.A. evidence sent out on  
9 those cases?

10 A. Yes.

11 Q. Do you remember when?

12 A. Well, I know when Detective Hernandez and I came to the Cold  
13 Case Unit, we resubmitted all the evidence in the female  
14 prostitute drug related homicides.

15 Q. So that would have been at least, then, when you came to the  
16 Cold Case Unit in late 2007?

17 A. Yes.

18 Q. Did any of those 24 or 25 victims that we've been talking  
19 about, did any D.N.A. from those victims link to Walter Ellis?

20 A. They did not.

21 Q. I want to turn your attention now to the investigation into  
22 Maryetta Griffin's homicide. You were involved in that  
23 investigation?

24 A. Yes.

25 Q. Do you recall when you became involved in that?

1 A. I want to say the day after. No, I think the day that it  
2 happened. I came in on the early shift, the second shift, and  
3 started working on it.

4 Q. Did you respond to the scene?

5 A. No, I was not on the scene.

6 Q. Were you at some point aware of what the scene looked like  
7 and how the victim was found?

8 A. Yes.

9 Q. And how did you become aware of that?

10 A. Through crime scene photographs that I had access to.

11 Q. Do you recall how the victim was found?

12 A. Yes.

13 Q. Can you describe for the jury what you recall?

14 A. She was found in a garage in an alley between North 6th  
15 Street and North 5th Street. I believe she was found towards  
16 the back of the garage. She was naked from the waist down. She  
17 had a letter jacket -- a high school blue and white letter  
18 jacket on. She had some visible injuries, I remember, to her  
19 face. There was some evidence -- you know, potential evidence  
20 scattered around, I remember.

21 Q. Do you recall the manner of death?

22 A. Yes. It was strangulation.

23 Q. Would you have been aware of those details prior to  
24 conducting any interviews of any witnesses or suspects?

25 A. Yes.

1 Q. Do you recall interviewing or meeting with Mr. Avery on  
2 March 23rd of 1998?

3 A. I do.

4 Q. Prior to meeting with Mr. Avery, what at that point did you  
5 know -- did you know anything about Mr. Avery?

6 A. I knew about his involvement in the drug house at 2474 North  
7 Palmer Street. That was information that was coming in shortly  
8 after the homicide of Miss Griffin. And we were learning that  
9 from various witnesses.

10 Q. I'm showing you what's been marked as Defense Exhibit 1029.

11 A. Yes, ma'am.

12 Q. Is that your handwriting?

13 A. It is.

14 Q. Okay. So this is -- can you describe for the jury what this  
15 is?

16 A. This is a statement form. It's like an addendum to the  
17 arrest report. So it is a form we use to write out supplemental  
18 reports about our interrogations or our interviews of suspects.

19 Q. And what does this -- well, what does this document actually  
20 memorialize?

21 A. What took place during an interview with Mr. Avery or any  
22 suspect that we talk to.

23 Q. So here on this document it says that you met with Mr. Avery  
24 in the presence of Detective Hernandez on March 23rd, 1998, at  
25 10:40 p.m., is that correct?

1 A. That is correct.

2 Q. And what happened at that time?

3 A. At 10:40 is when I advised Mr. Avery of his Constitutional  
4 rights, Miranda warnings. I told him obviously what we wanted  
5 to talk about, and he indicated that he didn't want to make a  
6 statement at that time.

7 Q. So what happened once he indicated he didn't want to make a  
8 statement?

9 A. The interview stopped. I asked him -- I wrote out the fact  
10 that I had advised him of his rights. I asked him to sign it.  
11 He did so. And that he indicated that he did not want to make a  
12 statement at that time, and the interview was terminated.

13 Q. So that is his signature right there?

14 A. That is.

15 Q. One of the rights you would have advised him of was the  
16 right to remain silent?

17 A. Exactly.

18 Q. And the right to have an attorney present? Or have an  
19 attorney?

20 A. Correct.

21 Q. And this is your signature below Mr. Avery's signature?

22 A. It is.

23 Q. Now, the next day, March 24th, 1998, do you recall meeting  
24 with Mr. Avery or interviewing Mr. Avery on that date?

25 A. Yes, I did.

1 Q. Do you recall what time that was?

2 A. I believe it was 5:40 in the afternoon. 5:30, 5:40 in the  
3 afternoon.

4 Q. Do you know -- or were you aware prior to meeting with  
5 Mr. Avery on March 24th, 1998, that he had made a statement to  
6 Detective Hernandez and Detective Phillips that same day?

7 A. Yes, I learned that.

8 Q. And how would you be aware of that?

9 A. I'm sure when I came into work at 4 o'clock and I met with  
10 Detective Hernandez, he would have informed me about that.

11 Q. Are you aware of what Mr. Avery told Detective Hernandez and  
12 Detective Phillips during that earlier interrogation?

13 A. Vaguely, yes.

14 Q. What do you recall?

15 A. I remember that Mr. Avery had told Detective Hernandez and  
16 Detective Phillips that he was in the drug house with Mercedes.  
17 That they had smoked some -- did some cocaine. Took some  
18 cocaine. And that he had fallen asleep at one point, and that  
19 when he woke up he -- she was going through his pockets, and he  
20 chased her or she started to run out of the house, words to that  
21 effect, and claimed that that was the last time he saw her. And  
22 he couldn't remember what had happened after that.

23 Q. Do you know when that interview took place?

24 A. It was in the morning during the day shift. I don't  
25 remember the exact times.

1 Q. I'm showing you what's been marked as Exhibit -- Plaintiff's  
2 Exhibit 11-F. And this is a copy of a report that you dictated?

3 A. Yes.

4 Q. And what is this report memorializing?

5 A. This is a typewritten version of the statement that I took  
6 from -- it's a typewritten version of the handwritten statement  
7 and the verbal statement that I had taken from Mr. Avery that  
8 night.

9 Q. Okay. Actually looking at this report, does that refresh  
10 your recollection as to the time as to when your interview with  
11 Mr. Avery took place?

12 A. Yes. It was on March 24th, 1998, at 5:30 p.m.

13 Q. You're very close. You said 5:30. Do you know when it  
14 ended?

15 A. Yes. It went rather long. 2:30 in the morning, I believe.

16 Q. And what was the reason you were questioning Mr. Avery at  
17 this time?

18 A. Well, I believed that -- and we all believed that Mr. Avery  
19 had more information to offer. Regarding I think the  
20 information that he had provided to Detective Hernandez and  
21 Detective Phillips, kind of made us all feel that maybe he had a  
22 little more information to tell us.

23 Q. And during this interview with Mr. Avery at 5:30 --  
24 beginning at 5:30 p.m. on March 24th, 1998, did he tell you  
25 anything about where he was working at that time?

1 A. Yes.

2 Q. What did he tell you?

3 A. He told us that he had just started in the beginning of  
4 February to sell drugs at the house at 2474 North Palmer Street.

5 Q. Did he tell you why he started working there?

6 A. His cousin, Ronnie, or Lorenzo Frost, had been selling drugs  
7 out of that house, and Lorenzo Frost wanted to get out of the  
8 business and asked Mr. Avery to take over.

9 Q. So Mr. Avery told you that he was running the drug house?

10 A. Yes.

11 Q. Was he running it with anybody?

12 A. No, not really. I think he was running -- he would give  
13 part of the proceeds, I believe, to Mr. Frost. Lorenzo Frost  
14 would get some of the money. I think there were some  
15 prostitutes that would come there and help out. I think a  
16 younger gentleman from the neighborhood, or might have been a  
17 relative of Lorenzo Frost, that he came there to assist from  
18 time to time.

19 Q. Did Mr. Avery tell you if he knew Mercedes or Maryetta  
20 Griffin before he started working at this drug house?

21 A. Not before. Not before he started working there. He had --  
22 was not familiar with her.

23 Q. So actually I'll just refer you to your report here. This  
24 last full paragraph. It states Avery stated that he had never  
25 met Mercedes, Maryetta Griffin, before working at 2474 North



1 Palmer Street, and stated that she had come to that drug house  
2 several times before her death. Is that what Mr. Avery told  
3 you?

4 A. Yes, it is.

5 Q. Did Mr. Avery tell you anything about what occurred at this  
6 drug house?

7 A. Yes. He said that a lot of prostitutes would come to the  
8 area to either buy drugs, or they would have their -- hold their  
9 dope dates at that residence. Inside that residence.

10 Q. Did Mr. Avery tell you what dope dating meant?

11 A. Yes, he did. That it was exchanging sex for money, or sex  
12 for drugs. One or the other.

13 Q. Did he tell you that that was occurring at that drug house?

14 A. Yes, he did.

15 Q. Did he tell you in terms of what the hours of operations  
16 were for this drug house?

17 A. It was open around the clock, 24 hours.

18 Q. During your interview of Mr. Avery, did you have occasion to  
19 show him any photographs?

20 A. I showed him a picture of Maryetta Griffin. I showed him a  
21 picture of Lorenzo Frost.

22 Q. And why would you have done that?

23 A. To make sure that -- who it was that he was talking about.  
24 That he was speaking about.

25 Q. Did Mr. Avery tell you anything about -- what, if anything,

1 did Mr. Avery tell you about consuming alcohol or his practices  
2 in that regard?

3 A. I remember Mr. Avery talking about his alcohol problem. He  
4 had -- I think he told me that he had a drinking problem since  
5 he was very young. I think he said 8 years old. He drank on --  
6 I think on a daily basis.

7 Q. Did you question Mr. Avery about what happened on  
8 February 16th, 1998?

9 A. Yes, I did.

10 Q. And what, if anything, did Mr. Avery tell you about that?

11 A. On the date of February 16th, which is obviously the day  
12 before Maryetta Griffin was found, the drug house was actually  
13 closed for the day during the day. He came -- later at night it  
14 was closed, because I think a relative of Lorenzo Frost lived in  
15 the downstairs. An uncle or a stepfather. I think it was a  
16 stepfather of Lorenzo Frost. And that that person would have  
17 his young daughter come to visit him on Sundays, so they closed  
18 the operation down during the day. And I think he indicated  
19 that he opened it back up sometime in the evening, either 5:00  
20 or 6 o'clock.

21 Q. So Mr. Avery told you that he came to the drug house  
22 later -- later on February 16th, 1998?

23 A. Yes, he did.

24 Q. And actually you put that in your report, right? Where I'm  
25 pointing. He stated that he then went to the Palmer Street

1 address shortly after 5:00 p.m. on Monday and was let in by Ray?

2 A. Yes. Yes.

3 Q. What else did Mr. Avery tell you about February 16th, 1998?

4 A. He said that Mercedes, Maryetta Griffin, had come to the  
5 house at about 6:30. She came over to buy some drugs. He  
6 mentioned that Lorenzo Frost was there. Came after Mercedes and  
7 stayed until about 7:00.

8 Q. And that's in your report, right?

9 A. Yes, that is in the report. He indicated at that time he  
10 had sex with Maryetta Griffin, oral sex, penis to mouth. And  
11 that Mercedes left after that.

12 Q. So that's information that you got from Mr. Avery?

13 A. Correct.

14 Q. What did Mr. Avery tell you after that?

15 A. I think after that he talked about a young girl named Keisha  
16 that was at the house. She was, I think, the alleged girlfriend  
17 of Goins, Lucious Goins. That she was there during the evening.  
18 That I think he was smoking marijuana with her. They were alone  
19 in the apartment at that time or the duplex. I think he said  
20 that he tried put some moves on Keisha, but Keisha wouldn't have  
21 anything to do with it.

22 Q. You put all that in your report as well, right? The  
23 description about Mr. Avery telling you about Keisha being there  
24 that evening?

25 A. Right. Yes. He also said that a prostitute known as Little

1 Bit -- that was her street name -- Little Bit had come over  
2 during the evening also, and he did say that it was about  
3 12:30 at night that she had come over, and that he sent her out  
4 to get some beer at what they call the bootleg place.

5 Q. And again, you put all of that, what Mr. Avery told you,  
6 into your report?

7 A. Right.

8 Q. Did he tell you -- what, if anything, did he tell you about  
9 once Little Bit was sent off to get some more beer? Did she  
10 come back?

11 A. She did come back, and I think she brought some beer and  
12 some -- something called a fifth of rose. A fifth of rose in a  
13 Nitrane bottle. I'm not sure what that is. But some Colt-45  
14 beer.

15 Q. You're not really sure what a Nitrane bottle is?

16 A. No. Had no clue.

17 Q. Why did you put that in your report?

18 A. Because it's what he said.

19 Q. What Mr. Avery told you?

20 A. Yes. What Mr. Avery told me.

21 Q. What else did Mr. Avery tell you in terms of what happened  
22 on February 16th?

23 A. He said that after Little Bit had come back, that they  
24 partied for a few more minutes. Maybe 15 or 20 minutes. And  
25 after that he partied with Keisha for awhile. He laid down on

1 the couch. Keisha went to bed. I think she was sleeping in a  
2 different bedroom. That no one else was in the house. He  
3 watched T.V. for a little while, and then waited for Doc.

4 Q. Do you know who Doc is?

5 A. Doc is Lorenzo Frost, I thought.

6 Q. Did he tell you what happened -- what happened after he was  
7 watching T.V. and waiting for Doc?

8 A. He indicated that another prostitute that he knew from the  
9 area by the name of Joanne had called him several times looking  
10 for Doc. And she had also told him that Mercedes was found  
11 dead.

12 Q. Did Mr. Avery tell you what time Joanne told him that  
13 Mercedes was dead?

14 A. I think it was in the morning. She -- I think he said when  
15 he got up in the morning -- that it was in the morning when  
16 Joanne had called and told him that she was dead. She indicated  
17 that Doc had come over about noon or 12 o'clock to pick up some  
18 of the money. They were staying around for 30 or 40 minutes.  
19 They woke up Keisha and told Keisha that she had to leave.  
20 Ronnie then took Avery to his house to drop off some money, and  
21 that he later took a cab back to the house. And he never heard  
22 anything more about Mercedes' death at that time.

23 Q. Okay. And I just want to make sure, since we do have your  
24 report here -- I'm going to go -- starting at this first full  
25 paragraph that you can see. In the report it says Avery stated

1 that he then partied with Keisha for awhile, drinking beer, and  
2 he then laid down on the couch and Keisha went to -- and Keisha  
3 went to bed.

4 A. Yes.

5 Q. He, meaning Mr. Avery, stated that the next thing he  
6 remembers is waking up on the couch, and Keisha was asleep in  
7 the west side bedroom.

8 A. Yes.

9 Q. And that's what you recall. That Keisha was sleeping  
10 someplace else in the house?

11 A. Yes. Yes.

12 Q. He stated that no one else was in the house at the time.  
13 And that's what Mr. Avery told you?

14 A. Yes.

15 Q. He stated that he watched T.V. for a little while and waited  
16 for Doc, and we talked about that. And that's what Mr. Avery  
17 told you?

18 A. Yes.

19 Q. And that's why you put it in the report?

20 A. Exactly.

21 Q. Avery stated that during the time that he was waiting for  
22 Doc, Joanne, another known prostitute, called several times  
23 looking for Doc. Avery stated that he could not be sure what  
24 time it was, but stated that Joanne told him that Mercedes was  
25 dead. Avery stated that he believed Doc came by about

1 12:00 p.m. or so on Tuesday to pick up some of the money. He  
2 stated that they sat around for 30 or 40 minutes, woke up Keisha  
3 and told her she had to leave. Avery stated that Ronnie then  
4 took him, Avery, to his house to drop off some money, and later  
5 took a cab back to the house. He stated that he never heard  
6 anything more about Mercedes' death. He stated that he was mad  
7 that someone was killing his girls. And that's in your report.  
8 And -- is that information -- where did you get that information  
9 from?

10 A. From William Avery.

11 Q. From Mr. Avery?

12 A. Yes.

13 Q. And that's why you put it in the report?

14 A. Exactly, yes.

15 Q. And you testified that you thought it was in the morning  
16 when Joanne told him about Mercedes' death, but that's not in  
17 this -- in this particular report, correct?

18 A. Correct.

19 Q. After Mr. Avery told you that, did he tell you anything  
20 regarding what they were going to do with the drug house?

21 What -- in terms of what he and Lorenzo Frost --

22 A. Yes. I know he worked it for a little while after the death  
23 of Mercedes, probably not more than a week. And I think it was  
24 the following Sunday when Lorenzo Frost told him they had to  
25 close the house down. That his stepfather, who lived in the

1 lower, was upset about the Police contact. The Police that were  
2 responding to the area.

3 Q. And you actually put that in your report as well. You  
4 actually see that right there?

5 A. Yes. Yes.

6 Q. And then further on the second full paragraph toward the  
7 bottom here, your report states Avery stated that the last time  
8 he saw this victim alive was on Monday evening at about 7:00  
9 p.m. after they had sex. He stated that he cannot remember ever  
10 seeing her after that. And who told you that information?

11 A. Mr. Avery.

12 Q. And that's why that's in your report?

13 A. Correct.

14 Q. He stated that he does not believe he was involved in the  
15 death of Mercedes, because when he passed out on the couch the  
16 only person in the house was Keisha, and she was there when he  
17 woke up.

18 A. Correct.

19 Q. That's what Mr. Avery told you?

20 A. It is.

21 Q. So during this interview Mr. Avery denied responsibility --  
22 or denied involvement in Miss Griffin's death?

23 A. He did.

24 Q. And you recorded that accurately in your report?

25 A. Yes.



1 Q. Towards the bottom here, the interview was then terminated  
2 at this time, 2:30 a.m., and this entire handwritten report was  
3 then read back to William Avery. Now, you're summarizing  
4 because -- and I'll show you, you had actually written out a  
5 handwritten version?

6 A. I did.

7 Q. Because what we're looking at is a typed version, and there  
8 was nobody typing up this report while you were interviewing Mr.  
9 Avery.

10 A. That's correct.

11 Q. How does the typed version get prepared?

12 A. We call in -- at that time we were calling in through a  
13 dicta -- almost like a Dictaphone over the telephone, and  
14 some -- one of our clerks would listen to that and just type it  
15 from the recording.

16 Q. And when would you dictate your typewritten -- your report  
17 to be typewritten?

18 A. In this case, since it went so late, it probably was done  
19 the next day.

20 Q. So you're documenting here in your typewritten report that  
21 Mr. Avery was offered the opportunity to sign the handwritten  
22 report that you wrote out while you were interviewing him?

23 A. Yes.

24 Q. And then it goes on however, William Avery refused to sign  
25 the PA45 report, indicating that it was a true and correct

1 statement, and refused to sign a statement indicating that he  
2 was given cigarettes, coffee, water, a chicken dinner, and  
3 numerous bathroom breaks during this interview. Again, Avery  
4 refused to affix his signature to this report. Again, the  
5 interview was terminated at 2:30 a.m. on March 25th, 1998?

6 A. Correct.

7 Q. And I'm not going to go through the handwritten version line  
8 by line, since we just looked over your report, but I am going  
9 to show you what's been marked as defense Exhibit 1031. Can you  
10 identify this for the jury, please.

11 A. Yes. This is a copy of the handwritten report I took from  
12 Mr. Avery on the night of March 24th, 1998.

13 Q. So it began on March 24th at 5:30 p.m.?

14 A. Correct.

15 Q. And you do see that 5:30 p.m.?

16 A. Yes.

17 Q. And there's a statement where the Constitutional rights were  
18 read, first paragraph there. And there's an "X". And here what  
19 did you write there?

20 A. Refused to sign.

21 Q. So did you give Mr. Avery an opportunity to sign right  
22 there?

23 A. Yes, I did.

24 Q. Showing you the last page of the handwritten report.

25 A. Yes, ma'am.

1 Q. Right here, this is a true and correct statement by me  
2 regarding this incident. And this -- you wrote this out for  
3 Mr. Avery to sign?

4 A. I did.

5 Q. And again there's the "X", and he refused to sign there?

6 A. Yes.

7 Q. And then the paragraph after that I, William Avery, was  
8 given numerous cigarettes, coffee -- what is that? Water, a  
9 chicken dinner, and bathroom breaks during this interview, but  
10 he also refused to sign that acknowledgement, is that right?

11 A. He did, yes.

12 Q. So this is about a three-and-a-half page handwritten report  
13 that you prepared. When would you have prepared this report?

14 A. During the interview with Mr. Avery.

15 Q. And after you prepared this report, this three-and-a-half  
16 page handwritten report for Mr. Avery, what would you have done  
17 once you had written out this report?

18 A. And after he refused to sign it?

19 Q. Well, I guess let's back up, then. Before he refused to  
20 sign it, what is your practice once you write out the report?

21 A. I would -- I'm sorry.

22 Q. Go, please.

23 A. I would have reviewed that report with Mr. Avery. I would  
24 have sat next to him, asked him to read it with me. I would  
25 have read it to him. I would have asked him to make any

1 corrections. This is -- pretty much told him this is your  
2 version of what you're telling me today. We want it, you know,  
3 to be accurate, so you need to let me know if there's any  
4 changes you want to make to the report. And that's the purpose  
5 of explaining to him when we read it back that -- that his  
6 signature at the end is an indication that he agrees to it.  
7 That it's a truthful and accurate report.

8 Q. And is your practice to read the report -- the handwritten  
9 report just once?

10 A. Yes. I mean, there might be times when we'd have to read it  
11 over again. I don't remember if that occurred with Mr. Avery.

12 Q. And if there are any changes in the handwritten version,  
13 what is your practice typically?

14 A. If there's any changes, whether it's something I miswrote  
15 myself, or any changes that Mr. Avery wanted me to make, I would  
16 have him initial that.

17 Q. Now, if Mr. Avery refused to initial it, what do you do?

18 A. There's nothing I can do. I can't -- that's his right to  
19 not sign anything.

20 Q. After this report and this interview, this March 24th that  
21 went into the 25th interview of Mr. Avery, was Mr. Avery charged  
22 with the homicide of Maryetta Griffin?

23 A. He was not.

24 Q. Was Mr. Avery charged with any sexual crimes against  
25 Maryetta Griffin?

1 A. He was not.

2 Q. There is this one portion in this report where Mr. Avery --  
3 where you put in here Mr. Avery told you that he had oral sex  
4 with Maryetta Griffin on February 16th, 1998. Do you recall  
5 that?

6 A. Yes.

7 Q. And that's something that Mr. Avery told you?

8 A. It is.

9 Q. You didn't put in this report that Mr. Avery told you he  
10 strangled Maryetta Griffin?

11 A. I did not.

12 Q. You didn't put in this report any other details -- saying  
13 Mr. Avery told you details about how Maryetta Griffin's body was  
14 found?

15 A. I did not.

16 Q. And you were aware of those details prior to interviewing  
17 Mr. Avery on March 24th, 1998?

18 A. Yes, I was.

19 Q. In fact, you were aware that Mr. Avery had made some  
20 admissions to your partner, Detective Hernandez, earlier that  
21 day?

22 A. That's right.

23 Q. But you didn't put any of those admissions into this report?

24 A. I did not.

25 Q. Is it fair to say that you only put in this report what Mr.

1 Avery told you?

2 A. Yes.

3 Q. Detective Spano, after this March, 1998, interview with Mr.  
4 Avery, do you recall if he was charged with any drug charges?

5 A. Yes, he was.

6 Q. Do you recall if there was additional investigation into the  
7 Maryetta Griffin homicide after this interview we're talking  
8 about, with Mr. Avery?

9 A. There was some further work done on it. Some additional  
10 interviews that probably went on for a couple of months. But  
11 nothing led anywhere, to anybody else.

12 Q. So how would you describe the Maryetta Griffin case, then,  
13 after those few months of additional investigation in 1998?

14 MS. HOFT: Object to form. Asked and answered.

15 THE COURT: Overruled. She may answer.

16 THE WITNESS: Could you repeat that again?

17 MS. YUAN:

18 Q. How would you describe the status of the Maryetta Griffin  
19 homicide after the few months of additional investigation back  
20 in 1998?

21 A. It just got cold. There was just nothing additional. No  
22 further suspects that were developed. No other leads were  
23 developed at that time.

24 Q. Were you actively investigating Mr. Avery as a homicide  
25 suspect in 1998 after this interview?

1 A. Well, for a short time, sure. I mean, we would certainly  
2 try to obtain additional information, but nothing developed.

3 Q. And after that period where nothing was developing, the few  
4 months, were you still actively investigating Mr. Avery as a  
5 suspect in the Maryetta Griffin homicide?

6 A. We were investigating whoever it was that killed Maryetta  
7 Griffin. We were investigating all of that. Mr. Avery was a  
8 suspect, and we were looking for any other additional  
9 information.

10 Q. Once the Maryetta Griffin homicide became cold, and you  
11 described that as there was -- you followed up on leads, and  
12 there was nothing further to go -- there's nowhere further to  
13 go, were you -- what were you working on then while in the  
14 Homicide Department?

15 A. Other unsolved -- other homicides. Other homicides that  
16 were ongoing, that were new, that were happening every day.

17 Q. So this is later in 1998, 1999, 2000?

18 A. Correct.

19 Q. So you're working other homicides at that point?

20 A. Yes.

21 Q. Do you recall how many homicides you were actively working  
22 on in 1998?

23 A. Well, I think in 1998 there were probably -- I'm going to  
24 guess about 120 homicides in that year. In some form or another  
25 we learn about each of them through our briefings. We probably

1 would have been involved in at least a third of those.

2 Q. So over 30?

3 A. Probably. Probably. That's a good guess, yes.

4 Q. And you're saying we. Are you referring to you and your  
5 partner?

6 A. I'm referring to myself and Detective Hernandez and the  
7 other Detectives that were on the early shift with us. The  
8 second shift at that time.

9 Q. Okay. And you were limiting that amount in terms of the  
10 number of homicides, and then the number you may have been  
11 working on to just the year of 1998?

12 A. Yes. That was just 1998, yes.

13 Q. So in 1999 would that number be about the same in terms of  
14 homicides other than the ones you were working on?

15 A. I remember 1999 it was pretty high. It was about 140?  
16 Maybe 144, 45 homicides that year. So, sure.

17 Q. And so if we talk about 1999, that's just 140,  
18 approximately, homicides that occurred in that year?

19 A. Yes.

20 Q. So you're actively working on those homicides?

21 A. Yes.

22 Q. And there are presumably other homicides that don't get  
23 solved from the prior years?

24 A. Absolutely.

25 Q. What happens to those?



1 A. Well, they become -- as much as what we can, all of us in  
2 the Homicide Unit, we're assigned to continue working on those  
3 that grew a little bit cold. That just weren't going anywhere.  
4 So we each kind of got a couple of cases to work on at the time.  
5 So they would kind of get back burnered, because the priority  
6 was always the new ones that were coming in.

7 Q. And why the priority of the new ones?

8 A. It's because they're -- the probability or the possibility  
9 of solving a homicide is very, very high within the first 48  
10 hours, 72 hours. Because that's when your witnesses are around.  
11 Your evidence is still there. It's fresh in peoples' minds. So  
12 it's a priority that the new ones get worked on right away.

13 Q. And you testified to you and other Detectives maybe having a  
14 few colder -- or cases that hadn't been solved yet. Who  
15 assigned those cases?

16 A. Our supervisors will usually assign them to us.

17 Q. So you as a Detective back in 1998, '99, 2000, did you have  
18 the ability to decide I'm going to work on this cold case?

19 A. Yes. Usually if it was a case that we -- I want to say we.  
20 I mean Detective Hernandez -- if we did a lot of work on the  
21 case, we kept it. We kind of took ownership of it. And that  
22 was I think real common amongst all of the different squads.  
23 You kind of took ownership. The bosses were okay with that.

24 Q. Do you recall if you were doing any work on the Maryetta  
25 Griffin case in 1999, 2000?

1 A. I did not.

2 Q. So you recall that you did not?

3 A. Correct. Excuse me, Miss Yuan. I know Mr. Avery was in  
4 trial I think in '99. Oh, no. No. I'm sorry. Disregard. I  
5 was wrong. I think his trial was in '98 for the drug charges.

6 Q. Detective Spano, do you recall being asked to get involved  
7 again in the Maryetta Griffin case in 2003?

8 A. Yes, I was.

9 Q. What do you recall about that?

10 A. I remember that Detective Heier and Detective Armbruster  
11 became involved through some information they received from a  
12 confidential informant through -- from some phone calls from  
13 some visits that they had made to some prisons. And I know they  
14 were in contact and communication with the District Attorney's  
15 Office regarding that information.

16 Q. Do you know specifically who they were in contact with?

17 A. Yes. That was Mark Williams.

18 Q. And why would it have been Mark Williams?

19 A. Well, Mark Williams initially reviewed the case of William  
20 Avery regarding the Maryetta Griffin homicide. He reviewed that  
21 to determine whether or not he was going to issue charges  
22 against Mr. Avery, which he did not. And so he would have -- he  
23 would have maintained possession of that case if it came back  
24 later. At a later time.

25 Q. So you're telling the jury how you became involved again in

1 2003. And I think you were saying that Detective Heier and  
2 Armbruster had gotten contacted by an informant?

3 A. Yes.

4 Q. And how else did you -- how -- please continue in describing  
5 how you and Detective Hernandez got involved?

6 A. Like I say, in -- I think it was August of 2003 -- might  
7 have been October of 2003, Detective Heier approached myself and  
8 Detective Hernandez and asked us if we would be willing to do  
9 some interviews, some re-interviews of people that they had  
10 already spoken to. Mostly to find out whether or not they would  
11 still be willing to cooperate with the investigation and testify  
12 in Court, if necessary. And I assume that was -- I'm pretty  
13 sure that was because he had been communicating with Mark  
14 Williams about the case.

15 Q. Show you what's been marked Exhibit 1034, it's already been  
16 admitted. Do you recognize this report?

17 A. Yes.

18 Q. And what is this?

19 A. This is a typed version of a report that I dictated of our  
20 interview, meaning myself and Detective Hernandez, of Jeffrey  
21 Kimbrough.

22 Q. And this took place on October 20th, 2003?

23 A. It did.

24 Q. It looks like this interview took place at about 2:00 p.m.  
25 at Stanley Correctional, is that right?

1 A. Actually it was at Prairie Correctional. I think I  
2 corrected it there and didn't correct it in the second -- at the  
3 end of the sentence.

4 Q. So that's actually in Minnesota?

5 A. It is, yes.

6 Q. Do you recall what it is that Mr. Kimbrough told you and  
7 Detective Hernandez?

8 A. I remember that Mr. Kimbrough told us that he first met  
9 William Avery through another cellmate or another prisoner,  
10 cellmate, named Antron Kent. And that I think happened at -- it  
11 says North Fork Correctional. And that he would see Avery from  
12 time to time at the prison. He indicated that at one time he  
13 was with Keith Randolph, another prisoner, and William Avery,  
14 and they were in the rec area.

15 Q. I'm going to refer you to your report, because I think  
16 actually you said Keith Randolph, and I want to make sure we get  
17 this right.

18 A. Okay.

19 Q. So -- that's okay. I know there's a lot of names. Looking  
20 at this last paragraph on this report, the report states  
21 Kimbrough indicated that during the time he was at North Fork  
22 Correctional is when he first met William Avery. He indicated  
23 that he met William Avery through his own cellmate, Antron Kent.

24 A. That's correct.

25 Q. Does that refresh your recollection?

1 A. Yes, it does. Yes.

2 Q. You said Keith Randolph. Did you mean Keith Randolph?

3 A. No, I meant Antron Kent.

4 Q. How do you know the name Keith Randolph?

5 A. I also interviewed Keith Randolph.

6 Q. Are you aware that he was another informant in this case?

7 A. Yes.

8 Q. So you were familiar with his name?

9 A. Yes.

10 Q. So what did Mr. Kimbrough tell you about his interaction or  
11 knowledge of Mr. Avery?

12 A. He indicated that in March of 2002 he was with his cellmate,  
13 Mr. Kent, in a recreation area, and that William Avery was there  
14 also in the rec area. And he overheard William Avery talking  
15 about some involvement in a homicide of a female in Milwaukee.

16 Q. And you did record that in this report?

17 A. Yes.

18 Q. And this information that's contained in your report,  
19 that's -- where did you get that information?

20 A. From Jeffrey Kimbrough.

21 Q. Did Mr. Kimbrough tell you anything about Mr. Kent?

22 A. Yes. He mentioned that a lot of prisoners -- a lot of  
23 people from the prison would go and talk with Mr. Kent to get  
24 advice from him. They considered him a religious man. I think  
25 something about his father was a Pastor or a Minister. He

1 also -- yeah, that he was teaching a lot of the inmates about  
2 the Bible and about religion.

3 Q. And that's what you recalled that Mr. Kimbrough told you  
4 about Mr. Kent?

5 A. Yes.

6 Q. And actually in your report you do put that he, meaning  
7 Mr. Kimbrough, indicated that Antron Kent is a religious man.  
8 They believe that his father or grandfather may be a Pastor, and  
9 that Kent is always teaching to a lot of the inmates about the  
10 Bible and about religion.

11 A. Yes.

12 Q. And where did you get that information?

13 A. From Mr. Kimbrough.

14 Q. And that's why you put it in your report?

15 A. Yes.

16 Q. Did Mr. Kimbrough tell you anything about what he noticed  
17 about Mr. Avery?

18 A. Just that Mr. Avery appeared to be getting closer to God.  
19 That he was becoming a little more spiritual. Going to the  
20 chapel. Appeared to be going through maybe some depression at  
21 the time. Those were his words.

22 Q. And again, that's information you got from Mr. Kimbrough?

23 A. Yes.

24 Q. What, if anything, did Mr. Kimbrough tell you about what  
25 Mr. Avery told him about a homicide?

1 A. I think that he overheard Avery talking to Kent. He was  
2 kind of walking behind him as they were talking, and Mr. Kent  
3 was asking Avery how he was feeling. If he was okay. I know  
4 Kent asked Mr. Avery if it was okay for Jeffrey to kind of  
5 listen in on the conversation, and Mr. Avery was okay with that.  
6 He wasn't -- he didn't know for sure what they were going to be  
7 talking about at that time, and he really didn't want to get  
8 involved, so he kind of stepped back and kind of walked behind  
9 Mr. Kent and Mr. Avery and heard parts of the conversation at  
10 that time.

11 Q. So that's what Mr. Kimbrough told you?

12 A. It is.

13 Q. Mr. Kimbrough told you that he didn't know what Mr. Kent and  
14 Mr. Avery were going to talk about?

15 A. Correct.

16 Q. And that's what you put in your report?

17 A. Yes.

18 Q. And Mr. Kimbrough told you that he didn't really want to get  
19 involved, so that's why he was hanging back?

20 A. Yes.

21 Q. Walking behind Mr. Kent and Mr. Avery?

22 A. Yes.

23 MS. HOFT: Objection. Leading, Your Honor. Pretty  
24 redundant.

25 THE COURT: It is. The Court will allow it.

1 MS. YUAN:

2 Q. What else did Mr. Kimbrough tell you about what Mr. Avery  
3 said about a homicide?

4 A. I know that Mr. Avery told Kent that he was having trouble  
5 sleeping. That something was bothering him. He overheard Avery  
6 talk about a spot that he had, meaning a drug house where he was  
7 selling drugs and getting money. He would do a lot of dope  
8 dating at that drug house, as well as he admitted selling drugs.  
9 He heard Mr. Avery indicate that on one night he was with a hype  
10 or a dope fiend, and that he had given the female some drugs for  
11 sex, and that she had smoked drugs. He remembered that Avery  
12 was saying something about falling asleep, and that when he woke  
13 up in the morning that the female dope fiend was stealing his  
14 money and stealing his drugs.

15 Q. Well, actually I want to make sure -- in your report you  
16 said was stealing his money or stealing his drugs. Is that  
17 right?

18 A. Yes. Stealing his money or stealing his drugs. But he  
19 couldn't be sure.

20 Q. And again, you got that information from Mr. Kimbrough?

21 A. Yes.

22 Q. That's not information that you or Detective Hernandez  
23 provided to Mr. Kimbrough?

24 A. No, no. Not at all.

25 Q. What else did Mr. Kimbrough then tell you about what



1 Mr. Avery said?

2 A. Mr. Avery then told Antron Kent that he just snapped and  
3 choked the bitch.

4 Q. Did Mr. Kimbrough tell you whether or not there was any  
5 description of what the woman looked like?

6 A. There was. He overheard Avery telling Kent that the woman's  
7 eyes were rolling in the back of her head. That she was making  
8 a choking sound, and those are the things that were bothering  
9 him at nighttime, that he couldn't sleep. The woman had stopped  
10 breathing. He realized that he had killed her. Apparently  
11 called some guys to come and help him get rid of the body. Some  
12 guy came over in a truck and that they dumped her body  
13 somewhere. But I don't think Mr. Kimbrough heard where that  
14 was. Or he didn't say where it was.

15 Q. And again, all that information that's in your report  
16 regarding the description that Mr. Kimbrough was providing you  
17 was -- all -- all came from Mr. Kimbrough, correct?

18 A. Correct.

19 Q. And it's what he's telling you that he overheard Mr. Avery  
20 say to Mr. Kent?

21 A. Yes.

22 Q. In the middle of this paragraph here, Mr. Kimbrough then  
23 says what your report says is he, meaning Mr. Kimbrough, was  
24 very uncomfortable overhearing them, because he thought he could  
25 go to jail for having information and for not telling the Police

1 about it. Is that what Mr. Kimbrough told you?

2 A. It is.

3 Q. He also indicated that he did not trust Avery, and feared  
4 that he was somebody that would retaliate if he ever told anyone  
5 about what he heard. Is that what Mr. Kimbrough told you?

6 A. Yes.

7 Q. He indicated that he does not remember Avery ever stating  
8 the name of who this woman was, but only knew that she was a  
9 dope fiend or prostitute in the area where we was selling drugs.  
10 Is that what Mr. Kimbrough told you?

11 A. Yes.

12 Q. He could not remember any other specific information that  
13 Avery told -- I'm sorry, that Avery said about his involvement  
14 in this incident, and did not speak with him about it ever again  
15 during his time in Oklahoma.

16 A. Correct.

17 Q. Now, do you recall, did Mr. Kimbrough tell you that it was  
18 Mr. Kent's idea to go to the Police?

19 A. He told us that Kent told him that he went to the Police.  
20 That he was talking with Detectives from Milwaukee. And they  
21 wanted to know if Mr. Kimbrough would be willing to come forward  
22 and tell us this information.

23 Q. And you wrote in your report he, meaning Mr. Kimbrough,  
24 indicated that Antron did convince that it was the right thing  
25 to do, to come forward and tell the Police about what he heard.

1 Is that what Mr. Kimbrough told you?

2 A. Yes.

3 Q. So Mr. Kimbrough told you that Antron Kent convinced him  
4 that it's the right thing to do, to come forward?

5 A. Exactly.

6 Q. And you put that in your report?

7 A. Yes, I did.

8 Q. During your interview of Mr. Kimbrough, did you show him any  
9 photographs?

10 A. Yes, I showed pictures of Mr. William Avery and Antron Kent  
11 to Mr. Kimbrough.

12 Q. And again, why would you do that?

13 A. Just to confirm who we were actually speaking about.

14 Q. Did Mr. Kimbrough tell you if he knew or was familiar with  
15 Mr. Avery or Mr. Kent prior to being incarcerated with him?

16 A. No. And he also wasn't familiar with the Milwaukee area.  
17 He was not familiar with him prior to this.

18 Q. And the last page here just shows that this is a report that  
19 you dictated?

20 A. Yes.

21 Q. Detective Spano, is there anything that was contained in  
22 your report memorializing your interview of Mr. Kimbrough that  
23 came from you or Detective Hernandez?

24 A. No.

25 Q. Is all that information contained in your report of the

1 interview of Mr. Kimbrough information that came from Mr.  
2 Kimbrough?

3 A. It did. Yes, it did.

4 Q. I'm showing you what's been marked as defense Exhibit 1035.  
5 It's been admitted into evidence already. What is this  
6 document?

7 A. This is a typewritten version of an interview I did with  
8 Antron Kent in -- no, I'm sorry. In Green Bay. Yes, in Green  
9 Bay Correctional, on October 23rd, 2003.

10 Q. So this is Antron Kent, correct?

11 A. It is Antron Kent.

12 Q. This is actually just 3 days after you had interviewed  
13 Mr. Kimbrough?

14 A. Yes.

15 Q. And you were there with Detective Hernandez?

16 A. I was.

17 Q. Do you recall what Antron Kent told you during this  
18 interview?

19 A. We confirmed that the information that he had provided to  
20 Detective Heier and Armbruster earlier -- in earlier interviews  
21 was the truth. He indicated that he met William Avery at the  
22 Milwaukee County Jail during a booking process. And that they  
23 later became acquaintances at the Oklahoma facility. They were  
24 cellmates for awhile. Got to know each other. Took some  
25 classes together. They had recreational and free time together.

1 He indicated that several months before he spoke with Armbruster  
2 and Heier that William Avery had told him this story about  
3 having trouble sleeping at night. That something was bothering  
4 him. That he appeared to be depressed.

5 MS. HOFT: Objection, Your Honor. I'm going to object  
6 to not only the narrative, but what we're doing is just reading  
7 a document that all of us can see.

8 THE COURT: Well, the document does speak for itself.  
9 Is this being offered for the same reasons the other ones were?

10 MS. YUAN: It is, Your Honor. And I can speed it up  
11 by asking more pointed questions. I want to just -- as the  
12 Court knows, I want to make sure that this witness will say  
13 where this information came from.

14 THE COURT: Like where did all the information in this  
15 report come from?

16 MS. YUAN: Right. I mean, this document does speak  
17 for itself, but I -- you know, it's her report and I do want to  
18 ask her questions as to the veracity and where some of this  
19 information came from.

20 THE COURT: Okay.

21 MS. YUAN:

22 Q. Detective Spano, do you recall what Mr. Kent told you about  
23 what Mr. Avery told him concerning -- concerning a homicide?

24 A. Yes. Mr. Avery had told Antron Kent that he had something  
25 that was bothering him. That he was having trouble making piece

1 with himself. That it wasn't about the drug case. That it was  
2 about killing someone. He said that he didn't ask any questions  
3 initially, but that Avery went on to explain that he had a drug  
4 house, was selling drugs with a guy, and the guy is the same guy  
5 that he was arrested with on the drug case, which -- and that  
6 his first name was Lorenzo.

7 Q. Okay. And did Mr. Kent tell you that Mr. Avery told him at  
8 some point he was with the victim, fell asleep, woke up to her  
9 stealing dope from him?

10 A. Yes. Yes.

11 Q. And that's in your report, right?

12 A. It is.

13 Q. And did Mr. Kent tell you that he couldn't remember exactly  
14 where the dope was?

15 A. Right. He doesn't remember what Mr. Avery said about that.

16 Q. So he couldn't tell you if it was coming from the pockets,  
17 or some other location?

18 A. Correct.

19 Q. And you were aware during this interview that there had been  
20 some statements by individuals that there was something being  
21 taken from Mr. Avery's pockets, correct?

22 A. Correct.

23 Q. And you didn't supply that information to Mr. Kent?

24 A. No. No, I did not.

25 Q. Did Mr. Kent tell you that he then, quote, just snapped on

1 the bitch, end quote?

2 A. Yes.

3 Q. Did Mr. Kent tell you that Mr. Avery explained to him that  
4 what he meant by that was that he put both of his hands around  
5 this female's neck and demonstrated a choking type of hold?

6 A. Yes.

7 Q. Did Mr. Kent actually demonstrate that for you?

8 A. He did.

9 Q. Did Mr. Kent tell you that Mr. Avery told him he just,  
10 quote, choked the shit out of her, end quote, and that she was  
11 gasping for air or making a choking noise?

12 A. Yes.

13 Q. Did Mr. Kent tell you that Mr. Avery told him that her eyes  
14 went and rolled into the back of her head?

15 A. Yes, he did.

16 Q. Did Mr. Kent tell you that Mr. Avery told him that that's  
17 what he sees and that's what's bothering him at night?

18 A. Right. He sees that at nighttime when he goes to sleep.

19 Q. Did Mr. Kent tell you that Mr. Avery told him he knew he  
20 killed this victim and he called his guy Lorenzo?

21 A. Yes.

22 Q. And that Lorenzo came over right away and they put this  
23 female in a vehicle and dumped the body someplace?

24 A. Yes.

25 Q. So this is again a little bit different than what

1 Mr. Kimbrough told you, where it was just a guy was called.

2 A. Right.

3 Q. Unidentified.

4 MS. HOFT: Objection, Your Honor.

5 Mischaracterization.

6 THE COURT: Well, it was a leading question. The  
7 question is, is this different than what Kimbrough told you? If  
8 it's asked that way, then it's not objectionable.

9 MS. YUAN:

10 Q. Detective Spano, we just talked about how you testified that  
11 Mr. Kent told you that Mr. Avery told him that after he knew he  
12 killed this girl, he then called his guy Lorenzo. Is that  
13 different than what Mr. Kimbrough told you and Detective  
14 Hernandez on October 20th, 2003?

15 A. Yes.

16 Q. How is that different?

17 A. I don't think Kimbrough was told the name Lorenzo. I don't  
18 think he had the name Lorenzo. It was just a guy. His guy. Or  
19 a guy.

20 Q. Mr. Kimbrough didn't identify Lorenzo in his interview with  
21 you?

22 A. Correct.

23 Q. Did Mr. Kent tell you that Mr. Avery told him it was Lorenzo  
24 that made the decision as to where they were going to dump the  
25 body?



1 A. Yes.

2 Q. Did Mr. Kent tell you anything about whether or not he  
3 believed Mr. Avery?

4 A. He did not at first. He thought he was B.S.-ing.

5 Q. What else did Mr. Kent tell you about how it came to be that  
6 he ended up contacting the Police?

7 A. He thought it was the right thing to do. I think that was  
8 what it was. He thought it was the right thing to do, to call  
9 the Police and report it.

10 Q. Did Mr. Kent tell you whether or not he had any personal  
11 knowledge of what happened?

12 A. He said he did not. He was specifically asked whether or  
13 not he had seen any newspaper articles or T.V. stories, and he  
14 said that he had not seen any.

15 Q. And actually I'll indicate here in your report -- it's in  
16 your report he indicated -- he, being Mr. Kent -- that he did  
17 not have any personal knowledge about this incident prior to  
18 William Avery telling him about it. That he does not remember  
19 seeing anything on the news about it and was not familiar with  
20 the area where this incident took place.

21 A. Yes.

22 Q. And you testified that Mr. Kent was specifically asked if he  
23 had seen anything on the news?

24 A. Yes. He was asked.

25 Q. And he told you he hadn't?

1 A. Correct.

2 Q. And that's why that's in your report?

3 A. Exactly.

4 Q. Did Mr. Kent see any of Mr. Avery's discovery?

5 A. He didn't indicate that he did. I'm sure that if I asked  
6 him what he knew about the case, that I would have asked him if  
7 he saw reports and documents, but he didn't indicate that he  
8 had.

9 Q. There's nothing in your report -- in this report of your  
10 interview of Mr. Kent indicating that Mr. Kent had seen any of  
11 Mr. Avery's discovery in any of his prior cases.

12 A. That's correct.

13 Q. Do you recall being deposed in this case?

14 A. Yes.

15 Q. Do you recall if you were deposed on June 28, 2012?

16 A. Yes.

17 Q. Do you recall being asked questions about interviewing  
18 informants in this Maryetta Griffin matter?

19 A. Vaguely.

20 Q. Vaguely. Do you recall if --

21 A. These informants?

22 Q. Kent and Kimbrough and Randolph. You had mentioned  
23 Randolph.

24 A. Yes, I think that -- I remember talking about that in the  
25 deposition.

1 Q. Do you recall being asked questions about your involvement  
2 in interviewing these informants prior to being allowed to see  
3 any of the reports that we were just going over?

4 A. Yes.

5 MS. HOFT: Objection. Form.

6 THE COURT: No. Overruled. She may answer.

7 MS. YUAN:

8 Q. Do you recall if during your deposition you may have stated  
9 that you believed Mr. Kent may have seen some discovery of  
10 Mr. Avery's?

11 A. Oh, I do remember that. Yes, yes, I remember that.

12 Q. Can you explain that? Why you would have said that in your  
13 deposition?

14 A. I think I misspoke in my deposition about who saw the  
15 discovery, but I'm pretty sure I corrected myself later when I  
16 realized it was actually Mr. Randolph that had told me about  
17 seeing the discovery.

18 Q. I'm showing you defense Exhibit 1036. And what is this?

19 A. This is, again, a typewritten version of an interview I did  
20 of Keith Randolph at Stanley Correctional on October 23rd, 2003.

21 Q. And again, you're with Detective Hernandez?

22 A. Yes.

23 Q. Did Randolph tell you anything about his relationship with  
24 Mr. Avery? Of having a relationship -- whether or not he had a  
25 relationship with Mr. Avery?

1 A. Yes. I think he knew the family. I think he knew the  
2 mother. I think he was a pallbearer at the mother's funeral, so  
3 he -- he was familiar with him.

4 Q. And you actually put that in your report. He indicated that  
5 he was a pallbearer at the funeral of Avery's mother, Barbara?

6 A. Yes.

7 Q. And that's information that you got from Mr. Randolph?

8 A. Correct.

9 Q. Did Mr. Randolph tell you whether or not he saw any news  
10 accounts of -- involving the homicide? Or Mr. Avery?

11 A. He did. He told me that he saw the news reports or news --  
12 either newspaper or news story, and that when he saw the news,  
13 he wanted to reach out to Mr. Avery and he wrote him a letter, I  
14 believe.

15 Q. You actually put that in your report. Says here, the last  
16 sentence of this first page, he indicated that he does remember  
17 seeing either a news report or a newspaper article about the  
18 arrest of William Avery, and wrote William a letter telling him  
19 to take care of himself and to keep his spirits up?

20 A. Correct.

21 Q. Do you recall if Mr. Randolph told you whether or not he  
22 reviewed any discovery of Mr. Avery's?

23 A. He did say that he reviewed some discovery. Some legal  
24 papers of Mr. Avery's, yes.

25 Q. And you actually put that in this report as well?

1 A. Yes.

2 Q. Here in the middle of the paragraph your report states Keith  
3 Randolph indicated that Avery asked him to look at some of his  
4 legal papers, and that he agreed to do so, and that he does  
5 remember reading the discovery papers that were given to him by  
6 Avery. He indicated that Avery wanted him to look over his case  
7 to see if there was anything that could -- that he could do on  
8 appeal and just to get some legal advice from him about his  
9 case. He indicated that he does believe that he may have taken  
10 some notes on legal papers that were provided to him by Avery,  
11 and that these notes may be in some boxes that he gave to his  
12 girlfriend, Lorraine Bowers, when he got out of prison. Where  
13 did that information come from?

14 A. From Keith Randolph.

15 Q. And again, you didn't hide that fact, that Mr. Randolph told  
16 you he saw some discovery and legal papers of Mr. Avery, is that  
17 correct?

18 A. Correct.

19 Q. You put that right in your report?

20 A. Yes.

21 Q. What did Mr. Randolph tell you -- what, if anything, did  
22 Mr. Randolph tell you about what Mr. Avery told him concerning a  
23 homicide?

24 A. Well, he indicated that again, that he was meeting Mr.  
25 Avery. That they were in the recreation yard. That Avery

1 wanted to confide in him about something that was bothering him.  
2 He was having trouble sleeping. Told him he wanted to tell  
3 somebody what really happened on the night that the homicide  
4 took place. Avery told him that he was in his spot, I'm sure  
5 referring to his drug house, and that he was with a female  
6 victim who was a prostitute. They were doing drugs, and that  
7 when he woke up in the morning that he had caught the prostitute  
8 going through -- either stealing his -- going through his  
9 pockets or stealing his drugs. And again, Avery had indicated  
10 to him that he just kept choking the bitch. Avery told him that  
11 she didn't pass out like she had originally -- like he had  
12 originally told the Police, but that he started to choke her  
13 again.

14 Q. Did Mr. Randolph tell you anything about what Mr. Avery did  
15 once -- after that point?

16 A. He tried to figure out how much money she had stolen from  
17 him, and that he kept slapping the bitch. Started choking her  
18 until she passed out.

19 Q. And actually I'm going to stop you. I'm just going to read  
20 from down here. That he, and I believe that means Mr. Avery,  
21 caught this prostitute going into his pockets, stealing his  
22 dope. And that's what Mr. Randolph told you that Mr. Avery told  
23 him?

24 A. Correct.

25 Q. And later on Keith Randolph indicated that Avery told him

1 that during this incident he would slap the bitch around, check  
2 his pockets again to see how much of the drugs she had taken,  
3 choke her again, and check his pockets again. And that's what  
4 Mr. Randolph told you?

5 A. It is.

6 Q. And I just want to make sure, because I think you said  
7 money, but Mr. Randolph told you that Mr. Avery believed drugs  
8 had been taken?

9 A. Exactly. Drugs.

10 Q. At some point did Mr. Randolph tell you that Mr. Avery told  
11 him he realized that the victim wasn't coming to?

12 A. Yes.

13 Q. And what else did Mr. Randolph tell you about what Mr. Avery  
14 told him?

15 A. Well, he started to panic, and that he kind of assumed that  
16 she may be dead. He called some workers over. I think he told  
17 Mr. Randolph -- Avery told Mr. Randolph that somebody he knew as  
18 Little "C" had come to help him get rid of the body.

19 Q. So in the report -- and that's what you put in your report,  
20 that Mr. Randolph told you that Mr. Avery told him he then  
21 called one of his workers, who came over, and they wrapped up  
22 the body in a rug or something. He indicated that he had woke  
23 up a subject named Little "C", who was asleep at the time, and  
24 that when Little "C" came into the room, Little "C" was upset  
25 about what he saw?

1 A. Correct.

2 THE COURT: Counsel, why are you offering all of this?  
3 This Exhibit is in the record, and the Exhibit has been  
4 testified to. That this is the statement that Mr. Randolph gave  
5 to this Detective. So why do we have to ask whether or not  
6 that's what Mr. Randolph told her?

7 MS. YUAN: I will move on, Your Honor.

8 THE COURT: Okay.

9 MS. YUAN: Thank you.

10 Q. Detective Spano, during your interview of Mr. Randolph, did  
11 you make any promises to him about any reduction in sentence?

12 A. I did not.

13 Q. Did Mr. Hernandez make any promise to him about reduction in  
14 sentence?

15 A. He did not.

16 Q. During your interview of Mr. Randolph -- strike that. You  
17 testified that you reviewed crime scene photos, is that correct?

18 A. Yes.

19 Q. And did you see photos of the victim?

20 A. Yes.

21 Q. And the victim at the scene?

22 A. Yes.

23 THE COURT: That's been asked and answered, counsel.

24 MS. YUAN:

25 Q. Did you see any photos of the victim wrapped up in a rug?



1 A. No.

2 Q. Did you show any photos to Mr. Randolph of anybody wrapped  
3 in a rug?

4 A. Absolutely not.

5 Q. Detective Spano, during your investigation of the Griffin  
6 homicide, did you become familiar with somebody named Patricia  
7 McCoy?

8 A. Yes.

9 Q. And how did you become familiar with her?

10 A. I can't remember if -- initially how we -- I think we were  
11 called over to the Criminal Justice Facility. I think she was  
12 in custody. Or someone referred us to her. I think the first  
13 interview we did she was in custody. I just don't remember how  
14 we made that contact. She was a prostitute that worked in that  
15 area, and I'm sure we were going over there to talk to her to  
16 see what she may know about Maryetta Griffin's homicide.

17 Q. Did you talk to Patricia McCoy more than one time?

18 A. Yes.

19 Q. Do you recall if you ever gave Patricia McCoy any money?

20 A. I could have. I could have. I don't have a clear  
21 recollection of that, but I could have.

22 Q. Can you explain the circumstances as to when or why you  
23 would give Patricia McCoy any money?

24 A. I certainly never gave her any money before I ever spoke  
25 with her, or for payment of information. Because she really

1 didn't provide any specific facts about the homicide. But we  
2 became familiar with each other. We knew that she worked in  
3 that area. My partner and I, especially during the beginning  
4 stages of this investigation, would travel around that area and  
5 talk to some of the ladies of the evening in the hopes that they  
6 would provide us with information. I'm sure during some of  
7 those contacts, and many times throughout my career I have run  
8 into people on the street that have asked me for money, and I --  
9 you know, if it's 5 bucks for cigarettes, or 5 bucks for a bus  
10 pass, or for a meal, I've done that. And I'm sure -- I just  
11 don't have a specific recollection of Miss McCoy, but I wouldn't  
12 deny that.

13 Q. Do you recall ever using Patricia McCoy as a confidential  
14 informant to do a controlled drug buy?

15 A. No.

16 Q. Now, if you were to have used Patricia McCoy as a  
17 confidential informant, or to do a controlled drug buy, would  
18 she ever be allowed to keep the drugs after the controlled buy?

19 A. Absolutely not.

20 Q. One moment. Detective Spano, did you make any promises to  
21 Antron Kent during your interview with him?

22 A. I did not.

23 Q. Any promises made to Jeffrey Kimbrough for his cooperation  
24 in this matter?

25 A. I did not.

1 MS. YUAN: I don't have any further questions. Thank  
2 you.

3 THE COURT: Okay. Well, might be a good time to take  
4 an afternoon break, ladies and gentlemen, before we do the cross  
5 examination. So we'll do that. Please don't discuss the case.  
6 Only after all the evidence is in. We'll see you back here  
7 after the afternoon break.

8 (Whereupon the jury was excused at 2:41 p.m.)

9 MR. SMOKOWICZ: Your Honor, just for clarification,  
10 since Detective Gulbrandson is no longer formally a party, I  
11 assume sequestration order works for him? He's to stay out?

12 THE COURT: Yup.

13 MR. SMOKOWICZ: Thank you, Your Honor.

14 THE COURT: Yes, I should say.

15 MR. SMOKOWICZ: Just want to make sure I don't allow  
16 him in here and we have an issue.

17 THE COURT: Okay.

18 (Whereupon a recess was called by the Court. Upon  
19 conclusion of the recess, the proceedings continued as follows:)

20 MR. STAINTHORP: Judge, before the jury comes in, can  
21 I just raise two things?

22 THE COURT: Sure.

23 MR. STAINTHORP: We -- the other day we had -- with  
24 respect to Plaintiff's Exhibit 28 and 29, which are the  
25 testimony of Hernandez and Phillips at the criminal trial, we

1 had moved the admission of those Exhibits. That being the  
2 transcripts. And at that time it -- so this is the record from  
3 the criminal trial. And you had not made a decision as to those  
4 two Exhibits, though you had admitted another portion of the  
5 transcript that we had proposed, that being Antron Kent. So I  
6 just want to note that we do still have pending the request to  
7 admit 28 and 29, and we would re-assert our request that they be  
8 admitted.

9 THE COURT: What was the defense position on those  
10 Exhibits?

11 MR. SMOKOWICZ: Well, Your Honor, at that point I  
12 think our concern was that there was no indication as to why  
13 they'd be used -- put into evidence in this case for any purpose  
14 whatsoever. And as a matter of fact, as opposed to Antron  
15 Kent's deposition, where a portion of it was read in and used  
16 for cross examination purposes, neither of these have been used  
17 for any purpose in any portion of this trial at this point.

18 MR. STAINTHORP: That's actually not quite accurate.

19 MR. SMOKOWICZ: Well, if it is, then I would like  
20 to -- I'd like to know, Your Honor, what it's been used for, and  
21 what portion of it's being offered for --

22 MR. STAINTHORP: So the reason for moving it into  
23 evidence is that in these very, very short portions of  
24 transcript -- I think Phillips is 3 or 4 pages, and Hernandez is  
25 maybe 5 -- they identify and move into evidence the statement

1 that they claim they got from Mr. Avery. So that's the sole  
2 purpose of moving it into evidence. It also, Judge, obviously  
3 is --

4 MR. SMOKOWICZ: Well, Your Honor, there's been no  
5 dispute about that. And as to the extent -- or to the extent as  
6 to Phillips, I recall he was asked about that. I don't know  
7 about -- anything about Hernandez, but it's duplicative at this  
8 point. It's not necessary at this point. They've provided  
9 testimony, period. It's not used for cross examination  
10 purposes. It's not used to challenge credibility on this.  
11 There's been no reluctance on this. I don't understand the  
12 purpose, and we would object.

13 THE COURT: Well -- but the purpose that  
14 Mr. Stainthorp indicated was to support the testimony that is  
15 already in the record. That these reports were used at trial as  
16 evidence?

17 MR. STAINTHORP: Yes, that is it, Judge.

18 THE COURT: And that's the sole purpose for doing so?

19 MR. STAINTHORP: Yes. That's the sole purpose.

20 THE COURT: Well, it is duplicative. And when were  
21 these offered prior to this point?

22 MR. STAINTHORP: These were offered on June the 4th.

23 THE COURT: And --

24 MR. STAINTHORP: As part of the trial record in the  
25 underlying case.

1 THE COURT: Upon the -- June 4th, upon the -- this  
2 case, June 4th.

3 MR. STAINTHORP: Yes. June 4th of this case.

4 THE COURT: Who was the witness on the stand at the  
5 time?

6 MR. STAINTHORP: I don't think there was a witness on  
7 the stand. We just offered them as part of the official record  
8 from the criminal case.

9 THE COURT: Well, they are an official record, and  
10 it's a very limited amount, and doesn't require any cross  
11 examination at the trial, so there isn't that problem with the  
12 information being not subject to cross examination. So the  
13 Court will receive them, as long as that's all it is.

14 MR. STAINTHORP: That's it.

15 THE COURT: Submission that Officer, you recognize  
16 this Exhibit? Yeah, it's 29. This is the statement you took  
17 from "X"? Yes. Admitted? Yes. I think that's what it says,  
18 then. We'll review -- are you going to use them in this cross  
19 examination?

20 MR. STAINTHORP: No. They were just out there on the  
21 table, and I just didn't want to forget.

22 THE COURT: Okay. We're all set? Housekeeping, I  
23 have to leave at quarter to 5:00. Got to follow-up on my  
24 Doctor's appointment.

25 (Whereupon the jury was returned to the courtroom at

1 3:09 p.m.)

2 THE COURT: Miss Hoft.

3 MS. HOFT: Thank you.

4 **CROSS EXAMINATION**

5 **BY MS. HOFT:**

6 Q. Good afternoon.

7 A. Good afternoon, ma'am.

8 Q. I asked you some questions last week, so I'm going to try  
9 not to ask you those same questions again, all right? So stop  
10 me and let me know if you think I start to do that. I think  
11 when the City Attorney Miss Yuan stopped questioning you, she  
12 was talking about an individual named Patricia McCoy?

13 A. Yes.

14 Q. And when was the last time you saw Patricia McCoy?

15 A. Boy, I probably last saw her -- might have been during  
16 the -- maybe the trial. The drug trial I think of Mr. Avery.

17 Q. You didn't see her in 2005 during the trial of Mr. Avery  
18 being tried for homicide?

19 A. Oh, I could have. She could have been there, yes. Yes.

20 Q. And do you recall speaking with her two weeks ago?

21 A. I did not speak with her two weeks ago.

22 Q. You don't recall two weeks ago her calling the Milwaukee  
23 Police Department and asking to speak to you?

24 A. No.

25 Q. So have you had any telephone conversations with her since

1 2005?

2 A. The last conversation I believe that I had with Patricia  
3 McCoy was on the telephone during the Walter Ellis investigation  
4 when he had -- when he was identified on the D.N.A. as the  
5 D.N.A. profile. I believe we made phone contact with her, and  
6 other Detectives in the Unit went to wherever she's living now  
7 to interview her. But it was just a phone conversation.

8 Q. Okay. So in 2010 or something like that?

9 A. Yeah, would have been 2009.

10 Q. Okay. And you testified that you may have given Patricia  
11 McCoy \$5.00 here or there?

12 A. I might have.

13 Q. You don't have any recollection of actually giving her any  
14 money?

15 A. I don't.

16 Q. And you wouldn't have given her up to \$20 at a time?

17 A. No.

18 Q. And you didn't give her any money for gas for her vehicle?

19 A. I don't believe she had a vehicle.

20 Q. And how many times do you think you may have given her \$5 or  
21 so?

22 A. Maybe 2 or 3 times. If it was even her. 2 or 3 times,  
23 maybe.

24 Q. And you knew that she testified at the homicide trial  
25 against Mr. Avery?



1 A. Yes.

2 Q. And did you ever record anywhere any of these payments to  
3 Miss McCoy that you may have made?

4 A. They weren't payments. They were gifts, I guess.

5 Q. Okay. Did you ever record anywhere the gifts that you gave  
6 Miss McCoy?

7 A. No. I have no reason to.

8 Q. Did you ever tell anyone that you had given Miss McCoy any  
9 money at all?

10 A. No.

11 Q. Did you ever tell the District Attorney prosecuting William  
12 Avery that you ever gave Miss McCoy any money of any amount?

13 A. I don't remember if I ever gave her any money for sure. So  
14 I don't remember any conversations like that.

15 Q. Okay. So you don't think you told the District Attorney  
16 that you gave her any money?

17 A. Right.

18 Q. And back to 1998, you've indicated that you started working  
19 on the Griffin investigation from day one, you think, right?

20 A. Yes.

21 Q. And you had a 9 hour interrogation with Mr. Avery on  
22 March 24th, I believe, starting at 5:30, is that right?

23 A. Yes. That's right.

24 Q. And you've previously testified that you knew about the  
25 statements that had been previously given to other Detectives,

1 including DeValkenaere, Phillips, and your partner, Hernandez,  
2 right?

3 A. Yes.

4 Q. And prior to meeting Mr. Avery at 5:30, did you meet with  
5 anyone else other than the other Detectives before that 9 hour  
6 interrogation?

7 A. Other than the Detectives? I'm sorry?

8 Q. Right. Anybody else that you recall?

9 A. Not really. I would have met with my partner. We would  
10 have talked about the case. I may have been in a briefing at  
11 the start of my shift to talk about everything that was going  
12 on.

13 Q. Because back then, I think it was a Tuesday, March 24th,  
14 your shift started about 4 o'clock, right?

15 A. Correct.

16 Q. So the first thing you would do is have the briefings with  
17 the other Detectives, right?

18 A. Yes.

19 Q. Do you recall having a meeting with Mark Williams -- well,  
20 let me ask you this. Back in 1999 there were different District  
21 Attorneys that you took cases to for different crimes, right?

22 MS. YUAN: You said 1999?

23 MS. HOFT: Sorry. Probably 1999, too, but thank you.

24 Q. 1998?

25 A. Yes.

1 Q. And you would take drug offense cases to Ron Dague, I think  
2 his name is?

3 A. Yes. Or anyone in the Drug Unit at that time.

4 Q. Okay. But Ron Dague was in the Drug Unit at that time?

5 A. He was.

6 Q. And you would take any homicide cases to a District Attorney  
7 by the name of Mark Williams, right?

8 A. Yes.

9 Q. Do you recall speaking to Mark Williams right after you got  
10 to work on March 24th at approximately 4:30, prior to that 9  
11 hour interrogation with Mr. Avery?

12 A. I could have. I just don't have a recollection of it. I  
13 could have.

14 Q. Is there anything that would refresh your recollection?

15 A. I don't know.

16 Q. Well, if I were to show you a notation in your memo book for  
17 Tuesday, March 24th, 1998, 4:30 meeting with Mark Williams --  
18 and I'm reading from Page 40 -- about 40 of Defendant's Exhibit  
19 1046.

20 MS. YUAN: Give me a moment, please.

21 MS. HOFT: I made an additional copy.

22 MS. YUAN: I have a copy.

23 MS. HOFT:

24 Q. So if I --

25 THE COURT: What was the Exhibit number?

1 MS. HOFT: It's a copy of this witness's memo book  
2 that was identified as Defendant's Exhibit 1046.

3 THE COURT: Oh, 1046.

4 MS. HOFT: Yes.

5 THE COURT: Okay. I thought you said --

6 MS. HOFT: It's about a 60 page document, and I have  
7 taken out one page.

8 Q. Let me show you what we've marked as 1046, Page 40.

9 A. Yes.

10 Q. And is that your handwriting?

11 A. That is my handwriting.

12 Q. And does that appear to you to be a page out of your memo  
13 book that you kept back in 1998?

14 A. Yes.

15 Q. And does that refresh your recollection that you did have a  
16 meeting with Mark Williams at 4:30 on Tuesday, March 24th, 1998?

17 A. Yes.

18 Q. But you don't recall any of the contents of that meeting,  
19 right?

20 A. I could -- believe the contents of the meeting were  
21 probably -- no, I really don't. I'm sorry. I don't have any  
22 recollection.

23 Q. You were going to say you could guess, but you don't want to  
24 do that, right?

25 A. Exactly. Exactly.

1 Q. And is there any other indication --

2 MS. YUAN: Counsel, did you move this?

3 MS. HOFT: I'm sorry. I would seek leave to admit  
4 Exhibit 1046, Page 40.

5 MS. YUAN: There's no objection.

6 THE COURT: The Court will receive it.

7 MS. HOFT:

8 Q. And you should be able to see this on your screen, but this  
9 is the page from your memo book, and it's titled on the left  
10 side Tuesday, March 24th, 1998, correct? And the next line  
11 indicates something -- Hein and Hernandez?

12 A. Squad 124, Hein and Hernandez, yes.

13 Q. Squad 124, okay. And then is it fair to say at 4:09 there  
14 was a C.I.B. briefing?

15 A. That would have been 4 o'clock. That's 4 o'clock.

16 Q. Okay. And that's the briefing that you discussed where the  
17 Detectives on the shift previous meet with the Detectives coming  
18 on and talk about the cases that are being investigated?

19 A. With supervisors present, yes.

20 Q. And then the next entry you've made is 4:30, meeting with  
21 Mark Williams. And the entry after that is 5:30, William Avery.  
22 Is that correct?

23 A. Yes.

24 Q. And back in 1998, after the interview with Mr. Avery, you  
25 also spoke to a Keisha Kenya Hall, correct?

1 A. I don't remember exactly when that interview took place. I  
2 think I did speak with her.

3 Q. And do you recall when you spoke to her that she  
4 corroborated that she had been at 2474 Palmer late in the  
5 evening of February 16th, to early in the morning February 17th?

6 A. Yes, she did.

7 Q. And I believe you testified on direct examination that if  
8 you've done a lot of work on a case, in other words if a  
9 homicide Detective has done a fair amount of investigation on  
10 the case, that they then take some kind of ownership over that  
11 case so they get first crack at additional evidence or  
12 investigation that may be needed?

13 A. I guess I don't know what you mean by that.

14 Q. Okay. Well, you were answering a question of Miss Yuan's  
15 about how homicide investigations get assigned out?

16 A. Yes.

17 Q. And it sounded like a lot of times they're whatever the  
18 supervisor wants to assign to you. Kind of randomly. Or  
19 arbitrarily, is that fair to say?

20 A. That happens sometimes, yes.

21 Q. But on other occasions if you've done a lot of work  
22 previously on a case, if investigations come up in that case,  
23 you keep some kind of ownership over that case and may ask to be  
24 assigned?

25 A. That may happen from time to time. Also the supervisors

1 make that decision if something would come in, something new. A  
2 new lead. A new -- somebody walked into the building and said  
3 they had information. A supervisor is going to look at that  
4 case and see who's the most familiar with it, because that would  
5 make sense. That maybe that Detective would handle it.

6 Q. What did you mean when you said if a homicide Detective has  
7 done a lot of work on a case they take on some kind of ownership  
8 of that case? What did you mean by ownership?

9 A. I think we take responsibility for it, or we invest a lot of  
10 time and effort into it, and a lot of emotional involvement in  
11 some of these cases. That happens from time to time.

12 Q. And so that ownership and investment would continue until  
13 the case would be solved?

14 A. Probably.

15 Q. And you have discussed at length on direct that you had  
16 something to do with each of the jailhouse informants who were  
17 involved in this case, correct?

18 A. Yes.

19 Q. And you were made aware with regard to Keith Randolph back  
20 in 2001? Before you had an opportunity to interview him?

21 A. I knew of his interview with Detective Heier and  
22 Gulbrandson.

23 Q. And did Detective Heier have any conversation with you about  
24 his sense of the reliability or credibility of that initial  
25 information that was garnered from Keith Randolph?

1 A. Not that I remember.

2 Q. And did you ever raise any concerns about the reliability of  
3 any of the 3 jailhouse informants in this case?

4 A. I didn't raise any concern, no.

5 Q. And is it fair to say that the -- and I know you talked  
6 about it on direct -- some of the issues with regard to  
7 differences in the jailhouse informant statements. But would  
8 you agree with me that the jailhouse informants substantively  
9 matched the statement that supposedly was given by William Avery  
10 on March 24th?

11 A. Yes. In some respects.

12 Q. And at the time you interviewed -- you and Detective  
13 Hernandez interviewed Antron Kent, did you know that  
14 Armbruster -- Detectives Armbruster and Heier had given the name  
15 Lorenzo to Antron Kent?

16 A. I would have read the report, but I don't know what you mean  
17 by that. That they provided the name Lorenzo. I guess I don't  
18 know what --

19 Q. Well, did Armbruster or Heier ever tell you that when  
20 Mr. Kent was first talking to them, he didn't know the name of  
21 the person who supposedly helped move the body of Miss Griffin  
22 from 2474 North Palmer?

23 A. I don't remember them telling me any specifics about their  
24 conversation. I just read the report.

25 Q. Okay. So you don't know whether or not they gave any



1 details to Mr. Kent?

2 A. Correct.

3 Q. And when you spoke to Keith Randolph, he indicated to you  
4 that he'd been a pallbearer at William Avery's mother Barbara's  
5 funeral?

6 A. Correct.

7 Q. And you didn't do any checking out to see if that was true  
8 or not, right?

9 A. No, I did not.

10 Q. And would that affect your assessment of his reliability if  
11 it turned out that he had not been a pallbearer or an honorary  
12 pallbearer at Mrs. Avery's funeral?

13 A. The fact that he knew her name was Barbara? I knew that her  
14 name was Barbara, so --

15 Q. How did you know that?

16 A. From the pedigree information I had obtained from Mr. Avery  
17 early on. So I believed that in that way it was verified. I  
18 felt that it was verified.

19 Q. So you didn't need to do any further verification?

20 A. Not really, I didn't.

21 Q. And when you were -- well, strike that. Now, you testified  
22 at Mr. Avery's homicide trial, correct?

23 A. Yes.

24 Q. And you testified at just one short period of time at his  
25 homicide trial?

1 A. I think so.

2 Q. I think you testified on two occasions at a pretrial motion,  
3 but only once at the trial?

4 A. I believe it was one time at the trial.

5 Q. And you did not testify at William Avery's trial anything  
6 about Kenya Hall, correct?

7 THE COURT: I didn't -- anything about what?

8 MS. HOFT: Kenya Hall. Sorry.

9 THE WITNESS: Keisha Kenya Hall? I don't know if I  
10 was asked. I don't remember.

11 MS. HOFT:

12 Q. Okay. But you -- well, let me show you what we've marked.  
13 It's only 3 pages. What we've marked as Plaintiff's Exhibit 30  
14 for identification. Have you had an opportunity to review those  
15 3 pages?

16 A. Yes.

17 Q. And does that refresh your recollection that that was your  
18 testimony at the -- at the homicide trial of Mr. Avery?

19 A. Yes.

20 Q. And nowhere in your testimony do you mention that William  
21 told you that after Maryetta Griffin left earlier that evening  
22 that it was he and Kenya Hall who slept overnight at the Palmer  
23 Street address from February 16th to the morning of February  
24 17th?

25 A. I wasn't asked those questions, so I would not have

1 answered.

2 Q. And you didn't tell anybody that information?

3 A. No, I wouldn't have at the trial.

4 Q. And when you testified about -- well, when you testified on  
5 direct examination about your interrogation with Mr. Avery from  
6 5:30 on March 24th up to 2:30 a.m. the next day, March 25th, you  
7 mentioned that he told you something about a Little Bit? A  
8 person named -- referred to as Little Bit?

9 A. Yes.

10 Q. And that Little Bit was sent out for alcohol?

11 A. Yes.

12 Q. And that alcohol I guess was some kind of Nitrane bottles?

13 A. Yes.

14 Q. Or rose or something?

15 A. Yes.

16 Q. And during that -- what was it? Nine hour interview, did  
17 you talk to Mr. -- did you talk to Mr. Avery about other days in  
18 February other than the 16th and the 17th?

19 A. The 16th, 17th, and I think the week after. We did the week  
20 after the homicide.

21 Q. You didn't -- didn't you talk to him about the workings of  
22 the drug house from when he first started working there in early  
23 February?

24 A. Oh, yes. In -- yes, in early February. Yes.

25 Q. And didn't he tell you that he had sent Little Bit out for

1 alcohol two weeks prior to February 16th?

2 A. I don't remember that. I thought he said the night of the  
3 16th Little Bit had come over. He could have. I don't remember  
4 that.

5 Q. You could have been mistaken about that date?

6 A. I'm pretty sure he -- I'd have to see the report, but I'm  
7 pretty sure he said that night. That he sent Little Bit out on  
8 the 16th. On the night of the 16th, the morning of the 17th.

9 Q. But if I understand you correctly, you're indicating that he  
10 could have told you that that happened earlier with Little Bit?

11 A. I don't remember that. I don't remember that.

12 Q. Now, with regard to your further investigation in this case,  
13 you have created a cold case review document, correct?

14 A. I did.

15 Q. And in that cold case -- well, let me just show you what  
16 Defendants marked 1025, in case you need to refresh your  
17 recollection. But in that cold case review, or that document  
18 entitled Milwaukee Police Department cold case review -- which  
19 is dated and submitted by you at the end, May 11th, 2010.

20 A. Yes, ma'am.

21 Q. On page -- well, let me ask you this. Do you recall putting  
22 in that cold case review that you spoke to an individual who was  
23 also a prostitute in that area by the name of Rhondalyn Scott?

24 A. Yes, I do.

25 Q. And that Rhondalyn Scott had told you that she last saw the

1 victim -- and we're talking about Maryetta Griffin here -- late  
2 on Monday evening, and she was wearing the North Division  
3 sweater and a red wig. Do you recall recording that in your  
4 cold case review?

5 A. Yes, she did tell us that.

6 Q. And you also put in your cold case review at the end of your  
7 description of William Avery, that -- the last sentence, that  
8 William Avery didn't believe he was involved in Miss Griffin's  
9 death because the only person in the house was Keisha Kenya  
10 Hall, and she was there when he woke up?

11 A. Correct.

12 Q. You put that in your cold case review, right?

13 A. Yes.

14 Q. And this cold case review which you submitted in May of  
15 2010, this was after the semen of Walter Ellis had been  
16 identified as being in the oral cavity, for lack of a better  
17 phrase, in the mouth of --

18 A. Oral swabs. The swabs from the mouth.

19 Q. The oral swabs that had been taken from Maryetta Griffin  
20 were linked to Walter Ellis, right?

21 A. That's when I did this review, correct.

22 Q. Okay. And when you did this review, part of doing this  
23 review was -- I think as Detective Hernandez talked to us about  
24 -- you sent a lot of other unsolved homicides in to be tested  
25 for D.N.A. to see if there were any other cases that linked to

1 Walter Ellis, right?

2 A. Correct.

3 Q. And I think Detective Hernandez testified there were  
4 hundreds or thousands of cases that were sent for additional  
5 D.N.A. testing?

6 MS. YUAN: I'm just going to object. That that  
7 misstates the prior testimony.

8 THE COURT: It's what?

9 MS. YUAN: I believe that misstates Detective  
10 Hernandez's testimony.

11 THE COURT: Well, I know he said there were thousands  
12 of calls, hundreds of cases. But we can clarify that. The  
13 witness can answer the question if that is the case. Thousands  
14 of cases that were sent up to the Crime Lab.

15 THE WITNESS: Could you restate the question?

16 MS. HOFT:

17 Q. Sure. Why don't I just ask you, how many cases do you  
18 think, unsolved homicides, you sent in to be checked to see if  
19 there was any link with Walter Ellis?

20 A. We sent in many cases during the time that Detective  
21 Hernandez and I started the Cold Case Unit. Probably hundreds  
22 of cases. Female homicide cases? Probably the amount that I  
23 talked to about with Miss Yuan. Probably 35? 40 cases?

24 Q. Okay. And if I'm understanding you correctly, you're  
25 indicating that this didn't really have anything to do with

1 Walter Ellis. This was just what you did in the Cold Case Unit.

2 You sent cases for additional D.N.A. testing, right?

3 A. Correct.

4 Q. And then after that was all done, there were 10 cases that  
5 again were linked to Walter Ellis?

6 A. When we first came to the Cold Case Unit in late 2007, there  
7 were 3 cases that were linked. And Detective -- by D.N.A. No  
8 named suspect. No one was in the database that belonged to that  
9 D.N.A. And Detective Hernandez and I were assigned to work on  
10 those in the beginning, in the inception of the Cold Case Unit  
11 that we started. So we worked on those. After that, probably  
12 during that same year, maybe even later in the year we looked at  
13 all of the females that were unsolved that could be linked in  
14 any way to anybody.

15 Q. And the 3 that were initially linked were Joyce Mims, number  
16 8, and Jessica Payne, number 7. And what other one?

17 A. They were linked in 2003. And Quithreaun Stokes was linked  
18 in 2007, just before Detective Hernandez and I went to the Cold  
19 Case Unit.

20 Q. I see. I see. So Jessica Payne and Joyce Mims were  
21 connected, and then Quithreaun Stokes was connected after that?

22 A. Correct.

23 Q. And then all of the cases were sent in to see if there were  
24 any other links?

25 A. Yes. Or see if there was any profiles developed. Not

1 necessarily just a link to these three. But to see if any of  
2 them were solve-able. To see if any of them had D.N.A. profiles  
3 on them. For anybody.

4 Q. Any of the other unsolved homicides that you had.

5 A. Exactly.

6 Q. To see if there was any D.N.A. evidence in those women of  
7 Mr. Ellis?

8 A. We looked at those cases to determine who could be --  
9 anybody. Who is responsible for these women? It didn't -- we  
10 weren't just targeting Ellis. We didn't have Ellis when we did  
11 that. We didn't know anything about Walter Ellis when we  
12 submitted all of that evidence for D.N.A. We had no idea who  
13 Mr. Ellis was. We were looking for suspects, for perpetrators,  
14 trying to develop, number one, if there are any -- if there is  
15 any D.N.A. profiles. Is there anything that -- you know, could  
16 they be identified? Do we know who they are? And if not, if we  
17 have a profile, and we don't know who that profile belongs to,  
18 we're going to investigate further and try to find a match. Not  
19 just to Walter Ellis, or to these three. But to any -- any --  
20 just to complete the work on any of them.

21 Q. Sure. And -- but you didn't send in the D.N.A. evidence of  
22 Maryetta Griffin. That was done at the request of the D.A. as a  
23 result of Mr. Avery's letter to him?

24 A. That's correct. That's correct.

25 Q. And you didn't do any investigation into any connection



1 between Walter Ellis and Maryetta Griffin once the D.N.A.

2 evidence came back that Mr. Ellis's D.N.A. was on the oral swab?

3 A. I think that we did a complete work-up on Mr. Ellis when he  
4 was identified to all of his victims, including Maryetta  
5 Griffin. That would have been done throughout our

6 investigation. Once -- once it was connected to Mr. Avery, I'm  
7 sure we would have done interviews to see who -- how they could  
8 have been connected, or how they knew about. We certainly

9 learned that Mr. Ellis was affiliated with the drug house at  
10 2474 North Palmer Street. That we found out once he had been  
11 identified, and once Mr. Avery had made his requests.

12 Q. And did you also -- would it also have been helpful to know  
13 whether Mr. Ellis had been seen with the victim? Or whether he  
14 lived in the vicinity of where the victim's body was found?

15 A. We -- again, we did a complete work-up of Mr. Ellis, and all  
16 of the addresses that he lived at during that entire period of  
17 time. So yes, we did do that.

18 Q. Okay.

19 A. And again, to repeat myself, we did find out that Mr. Ellis  
20 was affiliated, or made frequent stops, or knew about the drug  
21 house at 2474 Palmer Street.

22 Q. And did you also learn that Mr. Ellis in 1998 lived at 3037  
23 North 6th Street, just across the alley from where Maryetta  
24 Griffin's body was found?

25 A. Yes, we did.

1 MS. HOFT: No questions. Thank you.

2 THE COURT: Redirect?

3 MS. YUAN: One moment, Your Honor.

4 **REDIRECT EXAMINATION**

5 **BY MS. YUAN:**

6 Q. Detective Spano, do you still have that Exhibit 1025 in  
7 front of you, which is your cold case review?

8 A. Yes, I do.

9 Q. And if you turn to the fourth page, you have questions  
10 about -- including information from Rhondalyn Scott?

11 A. Yes.

12 Q. Was your cold case review based on a review of the M-file of  
13 Maryetta Griffin?

14 A. Yes, it was.

15 Q. And you see where Rhondalyn Scott is noted on that page,  
16 there's a page number after that name, Page 111. What would  
17 that refer to?

18 A. That would refer to the page number in the M-file. In the  
19 homicide file that her interview is contained on.

20 MS. YUAN: That's all I have. Thank you.

21 MS. HOFT: Just one question based on that.

22 **RECROSS EXAMINATION**

23 **BY MS. HOFT:**

24 Q. So if I understand you correctly, the information that you  
25 provided with regard to what Rhondalyn Scott told the Milwaukee

1 Police Department, that came from interviews back in 1998?

2 A. It did.

3 MS. YUAN: That's it. Thank you.

4 THE COURT: All right. You may step down, then,  
5 Detective Spano. Thank you. Additional witnesses?

6 MR. SMOKOWICZ: Detective Gulbrandson. I have to get  
7 him from out in the hallway, Your Honor.

8 THE COURT: Okay. Ladies and gentlemen of the jury, I  
9 have to leave at quarter to 5:00 today.

10 **DETECTIVE ERIK GULBRANDSON**, called as a witness,  
11 having been first duly sworn, on oath testified as follows:

12 THE CLERK: Please be seated. State your name and  
13 spell it for the record.

14 THE WITNESS: Erik Gulbrandson. E-R-I-K.  
15 G-U-L-B-R-A-N-D-S-O-N.

16 **DIRECT EXAMINATION**

17 **BY MR. SMOKOWICZ:**

18 Q. Good afternoon, sir. Where did you grow up?

19 A. Grew up in Ripon, Wisconsin.

20 Q. And what was your date of -- year of birth?

21 A. 1970.

22 Q. And where did you go to school? High school?

23 A. Went to Ripon High School.

24 Q. After Ripon High School, you had gone to school where?

25 A. I went to Carroll College. It's now Carroll University in

1 Waukesha.

2 Q. And when did you graduate from high school?

3 A. 1988.

4 Q. And how about college?

5 A. 1993.

6 Q. And what do you have your degree in -- from Concordia? It's  
7 Concordia, right?

8 A. Carroll College. Carroll University now.

9 Q. Okay.

10 A. It's in criminal justice, with a minor in communications.

11 Q. And what about in terms of full time employment? What was  
12 your first full time job?

13 A. Non-summer employment, first full time job was after  
14 graduating from college. I was already a part time employee at  
15 the Waukesha County Juvenile Detention Center. I then became a  
16 full time employee there before moving on to the Waukesha County  
17 Jail.

18 Q. And how long did you work in the Waukesha County Jail,  
19 slash, Juvenile Center?

20 A. The Juvenile Detention Center -- I was there for about one  
21 year and about a half a year prior to moving on to the Waukesha  
22 County Jail, where I was there for a year-and-a-half.

23 Q. And at the conclusion of that time period what happened  
24 next?

25 A. Then after that I became -- I was hired by the Milwaukee

1 Police Department in December of 1995.

2 Q. What was your position when you were hired?

3 A. I was a Police Officer, and I was assigned to District One,  
4 which is the downtown area.

5 Q. And for how long did you work in the downtown area?

6 A. I worked in the downtown area until 1999, and then I was  
7 transferred to a unit called the Street Crimes Unit, which is a  
8 city wide unit that addresses -- that works hand-in-hand with  
9 the Tac Squad, our S.W.A.T. Team, and we address problem areas  
10 in the city. If there's an event that's taking place, we go to  
11 that area. If there's trouble in a certain area of the city, we  
12 saturate that area and address that.

13 Q. And for how long did you work in that position?

14 A. I worked in that until December of 2001, and then I went --  
15 became a member of the Tac Squad Unit for 6 months, and then I  
16 was promoted to the rank of Detective.

17 Q. To the rank of what?

18 A. Detective.

19 Q. What year were you promoted to Detective?

20 A. That was in June of 2002.

21 Q. And how long have you remained as a Detective?

22 A. I'm still in that position right now.

23 Q. And in June, 2002, when you became a Detective, were you  
24 assigned to a particular area or unit?

25 A. I was. I was assigned to Violent Crimes Division, and I was

1 assigned late shift hours.

2 Q. And at some point did your assignment change within the  
3 division?

4 A. It did. After about 6 months of doing that, I then became a  
5 Sensitive Crimes Division Detective, which is focussing in on  
6 sexual assaults, missings, and crimes of that nature. Sexual  
7 assaults of children.

8 Q. How long did you remain in that assignment?

9 A. I was in there for -- that position about one year, and then  
10 I became -- I was assigned to the Homicide Unit.

11 Q. So what year did you become assigned to the Homicide Unit?

12 A. February of 2004.

13 Q. And from February, 2004, how long did you remain in the  
14 Homicide Unit?

15 A. I'm still in that Unit. I've been in there ever since.

16 Q. Okay. You recall being involved in any way in the  
17 investigation of the Maryetta Griffin homicide?

18 A. Yes.

19 Q. And do you remember what your first involvement was with  
20 respect to that investigation?

21 A. Sure. On September 7th, 2004, I went with then Detective  
22 Tim Heier -- he was my partner. We went up to Green Bay  
23 Correctional and interviewed a subject by the name of Antron  
24 Kent.

25 Q. Had you any information about this homicide before you went

1 up there for that interview?

2 A. Other than what Detective Heier told me, no.

3 Q. So had you even had the chance to review any reports or  
4 anything of that nature before you went up to Green Bay?

5 A. No.

6 Q. Once you went up to Green Bay, did you -- what role did you  
7 take in that interview? Did you ask questions? Were you just a  
8 witness? What were you?

9 A. I was more of support. I kind of took some notes, sat back.  
10 Detective Heier previously had contact with Mr. Kent. He had  
11 the report. He sat and spoke to him, and I just noted kind of  
12 our time that we started the interview, and then I did take  
13 notes when there was additional information provided.

14 Q. With respect to that interview, did -- at any time did  
15 Detective Heier -- strike that. With respect to that interview,  
16 at any time during that interview did Antron Kent say he wanted  
17 anything for his help in this matter?

18 A. No.

19 Q. With respect to that interview, at any time did Detective  
20 Heier offer any help to Antron Kent for his assistance in this  
21 matter?

22 A. No.

23 Q. What about you? Did he ask you for any help?

24 A. No.

25 Q. And did you offer any help?

1 A. No.

2 Q. Did you offer any details about the -- about the homicide?

3 A. No.

4 Q. What about Detective Heier?

5 A. Provide any details?

6 Q. Yes.

7 A. No. No.

8 Q. Did anybody make any threats against Antron Kent during this  
9 interview?

10 A. No.

11 Q. You mentioned earlier that there was an additional detail he  
12 provided during this interview, is that right?

13 A. Correct.

14 Q. What was the additional detail, to your understanding, that  
15 he -- your memory, that he provided during this interview?

16 A. Mr. Kent added -- he said there was one additional thing  
17 that he remembered. He said that they took the body to this  
18 particular location, because other bodies had been dumped there.  
19 And then Mr. Kent said he also believed that the F.B.I. was  
20 involved in the investigation.

21 Q. Investigation of what?

22 A. Of this homicide. Homicide of Miss Griffin.

23 Q. I'm going to show you what's been previously marked as  
24 Exhibit 1026, and ask you to identify the document.

25 A. Okay. This is a copy of a report that I created based on



1 our trip to Green Bay, and our interview with Mr. Kent.

2 Q. To the best of your recollection, does that accurately  
3 recount all the significant parts of that interview?

4 A. It does.

5 Q. Is this report signed by anybody?

6 A. It's signed by me, and a Lieutenant as well.

7 Q. And you prepared this report?

8 A. I did.

9 Q. After that interview was completed, did you and Detective  
10 Heier return to Milwaukee?

11 A. Yes.

12 Q. And after you returned, do you recall any further work on  
13 the case that day? Or within a day of that case?

14 A. We met with Assistant District Attorney Mark Williams.  
15 Advised him of the interview of Mr. Kent, and the additional  
16 details. And then Detective Heier signed a Complaint on that  
17 particular day.

18 Q. Subsequent to that, did you have any further involvement in  
19 this matter?

20 A. Yes.

21 Q. What was your next involvement in this matter?

22 A. Two weeks later on Tuesday, April 21st.

23 Q. April?

24 A. Excuse me?

25 Q. You said April.

1 A. I'm sorry. September 21st. On that day we conducted the  
2 in-custody interview of William Avery.

3 Q. When you say we, who conducted that interview?

4 A. That was Detective Tim Heier and myself.

5 Q. And where did that interview take place?

6 A. It took place at the CIB, room number 413.

7 Q. And how long was that interview? Do you have a sense?

8 A. The interview was 28 minutes. It was from 8:36 p.m. to  
9 9:04 p.m.

10 Q. And did Mr. Avery make any statement to either you or  
11 Detective Heier during that time frame about his involvement in  
12 the homicide of Maryetta Griffin, if any?

13 A. No. He invoked his right to an attorney.

14 Q. And did you prepare a report relating to that?

15 A. I did.

16 Q. I'm going to show you what's been marked as Exhibit 1027.  
17 Do you recognize that report?

18 A. Yes. This report is a dictated version of the handwritten  
19 report that I had done at the time of the interview.

20 Q. With respect to that report, does it -- what does it  
21 reflect, if anything, about Mr. Avery's willingness to talk  
22 about the homicide?

23 A. It states that he wished to invoke his right to a lawyer  
24 prior to giving any statement.

25 Q. And who signed that report?

1 A. Me, as well as a Lieutenant.

2 Q. During that interview of Mr. Avery, did you make any threats  
3 to him?

4 A. No.

5 Q. Did Detective Heier make any threats to him?

6 A. No.

7 Q. Did you in any other way attempt to coerce him to confess to  
8 that homicide?

9 A. No.

10 Q. Did Detective Heier make any efforts to coerce him to  
11 confess to that homicide?

12 A. No.

13 MR. SMOKOWICZ: Thank you. That's all I have.

14 THE COURT: Cross examination.

15 **CROSS EXAMINATION**

16 **BY MR. ELSON:**

17 Q. Detective Gulbrandson, your only involvement in the Maryetta  
18 Griffin homicide investigation was to go with Detective Heier to  
19 Green Bay Correctional Institute and interview Antron Kent in  
20 September of 2004, right?

21 A. That, as well as the subsequent interview, yes.

22 Q. And the subsequent interview. And by the time you saw  
23 Antron Kent, he had already been interviewed on a number of  
24 occasions by Detectives Armbruster, Heier, Hernandez, and Hein,  
25 right?

1 A. Correct.

2 Q. And Armbruster and Heier had interviewed him in Oklahoma,  
3 right?

4 A. Correct.

5 Q. And Hein and Hernandez had interviewed him in Green Bay?

6 A. Yes.

7 Q. And you have no personal knowledge of what occurred during  
8 those interviews, right?

9 A. Correct.

10 Q. You don't know what Antron Kent said to those Detectives,  
11 and you don't know what those Detectives said to Antron Kent,  
12 right?

13 A. Well, they actually -- when I met with Antron Kent, he  
14 confirmed the previous two statements that he had provided as  
15 accurate. So --

16 Q. But in terms of those interviews that those Detectives  
17 conducted with Mr. Kent, in Oklahoma and previously in Green  
18 Bay, you weren't present for those interviews, so you don't know  
19 what was said between the Detectives and Mr. Kent, correct?

20 A. That's correct.

21 Q. Now -- and I think you said in the interview of Mr. Kent  
22 that you and Heier -- Detective Heier conducted, Detective Heier  
23 did most of the talking, right?

24 A. That's correct.

25 Q. And Detective Heier already knew Antron Kent from

1 interviewing him previously, right?

2 A. Yes.

3 Q. And Detective Heier had previously gone over Mr. Kent's  
4 story with him in Oklahoma, right?

5 A. Correct.

6 Q. And Mr. Kent went over this story again in an interview that  
7 you and Detective Heier did with him in Green Bay, right?

8 A. Correct.

9 MR. ELSON: No further questions.

10 THE COURT: Any redirect?

11 MR. SMOKOWICZ: No redirect, Your Honor.

12 THE COURT: All right. You may step down, Detective  
13 Gulbrandson. Additional witnesses?

14 MR. SMOKOWICZ: The Defendants do not have any  
15 additional witnesses. Subject to introduction of any Exhibits,  
16 at this point we would rest.

17 THE COURT: Okay. Let's have a side-bar conference,  
18 please.

19 (Whereupon a side-bar conference was held off the  
20 record. Upon conclusion of the side-bar conference, the  
21 proceedings continued as follows:)

22 THE COURT: Well, ladies and gentlemen of the jury,  
23 you've heard the defense rests. The Plaintiff has rested.  
24 We've had a conference as to how we're going to proceed from  
25 here. And as I indicated at the start of the trial, what we're

1 going to do is now listen to the closing arguments of the  
2 attorneys. But that's not just going to happen like that. They  
3 have to have time to prepare their closings, Exhibits, and get  
4 organized in that regard.

5 In addition, I have to advise you on the instructions  
6 of law that I'm going to give you. And we also, in that  
7 connection, always have what we call an instruction conference  
8 with the attorneys as to those instructions of law that I will  
9 ultimately give you. That takes some time.

10 So you're going to get out earlier than quarter to  
11 5:00 today. You will come back tomorrow. Because we're going  
12 to take that up now. Take up these other matters tomorrow  
13 morning. Also need some time tomorrow morning. So what we're  
14 going to do is we will have you back here at 12:30, and then you  
15 will hear the closing arguments of the attorneys, and I will  
16 instruct you in the law. And then you will go into the jury  
17 room and deliberate on the case. Okay? That's the way it's  
18 planned right now. And that's the way it should work.

19 Now, you've heard all the evidence in this case, and  
20 it becomes very tempting to discuss the case. As I have said  
21 throughout the trial, please don't. And I said only after  
22 you've heard the closing arguments of the attorneys and I've  
23 instructed you in the law and you're actually in the jury room  
24 deliberating on the case after you picked a foreperson to  
25 preside over your deliberations, okay? So we'll see you

1 tomorrow at 12:30. Have a good evening, okay?

2 (Whereupon the jury was excused at 4:07 p.m.)

3 THE COURT: Okay. You may be seated. We will put the  
4 sidebar conference and the offer of proof relative to the  
5 rebuttal that was being offered out of the Claim -- Notice of  
6 Claim.

7 MR. STAINTHORP: Yes, Judge.

8 THE COURT: Mr. Stainthorp.

9 MR. STAINTHORP: With respect to the rebuttal evidence  
10 that the Plaintiffs wish to offer in this case, this evidence  
11 would be direct rebuttal to the testimony of Detective Hernandez  
12 which was offered during the Defendant's case in chief. That he  
13 did not offer any suggestions to Mr. Avery. That he did not  
14 pose hypotheticals to Mr. Avery. That he did not provide Mr.  
15 Avery with suggestions as to how this crime occurred.

16 This is particularly important in this case, because  
17 up until Detective Hernandez -- or former Detective Hernandez  
18 testified in the Defendant's case in chief, he had disavowed,  
19 for the most part, any recollection of the interrogations that  
20 he had conducted with Mr. Avery. He had said repeatedly I don't  
21 remember. I don't remember. He had been asked at his  
22 deposition what went on during those interrogations. I don't  
23 remember. I don't remember. And even in his testimony in our  
24 side of the case, that was his testimony. I don't remember. I  
25 have no recollection. Then in the Defendant's side of the case,

1 he comes out with a very detailed recollection, alleged  
2 recollection of the various interrogations.

3 So in that context, it is now important for us, very  
4 important, critically important, for us to be able to offer some  
5 evidence in rebuttal of that. And what we have here, and what I  
6 was proposing to read to the jury, are portions of the Notice of  
7 Claim which has already been entered into evidence, without  
8 objection. And this is the Notice of Claim filed by Mr. Avery  
9 in 1998. In November of 1998. And that is what I proposed to  
10 do in rebuttal. And at sidebar the Court indicated it was not  
11 inclined to allow me to do that. So I would like to make an  
12 offer of proof as to what I would read in.

13 THE COURT: Okay.

14 MR. STAINTHORP: Portions of this Notice of Claim. So  
15 this is -- my offer of proof is that on or about November  
16 the 27th, 1998, Mr. Avery filed a Notice of Claim. Contained  
17 within this Notice of Claim is the following. Quote --

18 MR. SMOKOWICZ: Your Honor, just to follow along, so  
19 that I can, what page?

20 MR. STAINTHORP: We're starting on Page 1. But -- and  
21 I'm going to go sequentially, but there's going to be big gaps  
22 where I'm just leaving stuff out. Quote, Monday, March 23rd,  
23 1998, at 9:30 a.m. I presented myself to the C.B.I. - slash  
24 C.I.B., where I met Detective Daniel Phillips and Detective  
25 James DeValkenaere, at which time they informed me that all they



1 wanted was for me to be a witness to a homicide that was totally  
2 alien to me. I informed them that I didn't know anything about  
3 the homicide.

4 Then there's a break, and I'm going down to the  
5 portion right above the excised portion. They started asking me  
6 if I sold dope out of that house, and if I dope dated the woman  
7 in question. Did she steal anything from me? I answered no,  
8 no, to all the questions. They kept asking the same question  
9 over and over. I could see that they didn't believe. Started  
10 asking for a lawyer. Detective Phillips, quote, it wouldn't  
11 work that way.

12 The next section I'm proposing to read is at the end,  
13 at the -- towards the bottom of Page 2, and it relates to  
14 questioning during the morning interrogation session on March  
15 the 24th, 1998. This time they were saying that I knew what  
16 happened to that woman. Saying, quote, you did it, Jody. You  
17 and your cousin, end quote. I kept telling them that I didn't  
18 hurt her or know who did. Detective Phillips started asking me  
19 if I ever been in trouble like this before. I told him no,  
20 because I ain't in no trouble, because I ain't did nothing. His  
21 favorite saying was, quote, rule number one, you're fucked.  
22 Rule number two, how can I minimize rule number one? I would  
23 just say that I didn't hurt that woman or know who did.

24 The next portion appears on the next page. And again,  
25 relates to the interrogation on 3/24, and appears around the

1 middle of the page, towards the end -- towards the middle of the  
2 first -- wrong paragraph, actually. Quote: I kept asking for a  
3 lawyer the whole time they were questioning me. They kept  
4 saying it don't work that way. So Detective Hein would leave  
5 the interrogation room, and Detective Phillips would come in.  
6 He and Detective Hernandez out of the blue started saying that I  
7 admitted to killing the woman. I would respond, quote, no I  
8 didn't. You all is lying to me, end quote. Detective Phillips  
9 would be saying stuff like how else would someone know that the  
10 woman had been killed when her body wasn't reported until about  
11 11:00 or 12:00?

12           Then there is a gap. And then the next portion is  
13 towards the bottom of Page 3. By the time Detective Hein had  
14 come into the room and Detective Phillips had left, Detective  
15 Hernandez started saying that I had admitted to the killing to  
16 him and Detective Phillips. In front of Detective Hein I would  
17 ask if I could have an attorney, and they would say it don't  
18 work that way. They had me where I could hear the phone. So  
19 whenever it would ring, Detective Hein would go out to answer  
20 the phone. That's when Detective Hernandez would start telling  
21 me what happened to that woman. The story that they released to  
22 the newspaper. When Detective Hein would come back in,  
23 Detective Hernandez would start saying that Jody, I can't tell  
24 you what happened. You have to tell us what happened, end  
25 quote. I was getting very frustrated with all those same

1 questions. I wanted them to leave me alone. So I tell them  
2 hypothetically speaking, I think that could happen. But it  
3 didn't. The Detective, Gilbert Hernandez, would start saying,  
4 quote, Jody, just forget the bond you and Ron made. I would --  
5 end quote. I would tell them, quote, ain't nobody made no bond,  
6 end quote. He started saying Ron told them that I killed that  
7 woman. I would say no, he didn't.

8 And down about 10 lines from there, referring to  
9 Detective Hernandez, the Notice of Claim states: He, Hernandez,  
10 found out that I had been shot in my head before, so he started  
11 saying I blank out and didn't remember I killed that woman. I  
12 would tell him that didn't happen.

13 The next portion is at the -- right at the bottom of  
14 Page 5. And I'm going on to Page 6. Starting so then Detective  
15 Hernandez start telling me, Ron panicked and helped dump that  
16 woman body. I would respond no, he didn't. He would know it  
17 would be easier to explain if something like that had happened,  
18 because he was telling me that woman fell down the stairs and  
19 broke her neck. I would tell him my grandmother didn't raise no  
20 coward, and if that did happen, I would take responsibility for  
21 my action. He start saying you called Ron and said something.  
22 Get over here, I think I killed the bitch. I was telling him  
23 no, I didn't. I knew he was lying, because I don't have no  
24 phone number to Ron. Then I told him okay, check the phone  
25 records to see if a phone call was made to Ron that night. He

1 was saying Ron helped me dump that woman body. I would tell him  
2 no, he didn't.

3 And that's the end of the portion I would propose  
4 reading, Judge.

5 THE COURT: Okay. That offer of proof has been made.  
6 Any response from the defense as to that offer? Or the Court's  
7 ruling?

8 MR. SMOKOWICZ: As to that offer, Your Honor, I would  
9 note now that it's been laid on the record -- at least the first  
10 couple of -- three portions have to do with Detective Phillips  
11 and Detective DeValkenaere, and nothing to do with the proposal  
12 to address what Detective Hernandez said or may have allegedly  
13 suggested. Furthermore, as I indicated at the sidebar, this is  
14 not appropriate rebuttal evidence. It would have been the  
15 subject of cross examination. The document had been apparently  
16 admitted -- we did, I believe, according to our notes, either  
17 reserve the right to make an objection, or did make an  
18 objection.

19 We do object to this, Your Honor. This is -- this is  
20 an improper attempt to put in a prior statement. Prior  
21 consistent statement. But it's also -- in any event, it's  
22 inappropriate rebuttal here because this is evidence that is not  
23 in response to any surprise. It's not new evidence. It's  
24 evidence that's already been in there. It's not a new witness.  
25 It's not a new document. It's already been put into evidence.

1 Rebuttal evidence is just that, something new. Something that's  
2 not been heard by the jury in response to an unexpected  
3 statement by the Defendants, and it's inappropriate.

4 THE COURT: Okay. You made those arguments at  
5 sidebar. I was just asking if you had any more comments about  
6 the offer of proof?

7 MR. SMOKOWICZ: And I did add the first couple of  
8 points, obviously.

9 THE COURT: It was the Court's ruling at sidebar that  
10 it wasn't rebuttal. And the Court -- I don't know if I  
11 referenced at sidebar, I said something like the Exhibit or that  
12 testimony was already in the record. And it was, through Mr.  
13 Avery, who indicated -- and was examined when the Court admitted  
14 Exhibit 6, about the Notice of Claim that he filed I believe  
15 back in November of '98 or whatever that is. November 27th,  
16 '98. And he testified very clearly that nothing he was accused  
17 of is true. That they made up the confession and that -- words  
18 to that effect. And that he did not commit the murder. So it's  
19 something that is already in the record and the Court,  
20 therefore, didn't treat it as rebuttal testimony subsequent to  
21 Hernandez's denial that he didn't do that. And Avery also  
22 testified, from the Court's memory, that Hernandez told him at  
23 the time you've got to tell us, otherwise we can't help you.  
24 Words to that effect. It was sort of a -- that he created these  
25 hypotheticals, and he said that this may have happened, and

1 that's the way they examined me. And then it was ultimately --  
2 the hypothetical was turned into what was actually a confession.  
3 Inculpatory testimony. And -- because the witness has testified  
4 that they didn't think this was a complete confession of  
5 something that was good enough for the D.A. But in any event,  
6 those all were put -- words put into his mouth. And I can't  
7 remember all of the testimony, but the Court is convinced that  
8 this was already offered and is not rebuttal testimony. So that  
9 record is made.

10 So tomorrow morning let's meet here at 9:00 and then  
11 go over instructions, okay?

12 MR. STAINTHORP: And just one other point, Judge. You  
13 did indicate at sidebar that we were certainly entitled to argue  
14 what's in the Notice of Claim?

15 THE COURT: Yes. That's in the record, it's in the  
16 evidence, so it can be argued.

17 MR. STAINTHORP: Okay. Thank you.

18 THE COURT: So 9 o'clock tomorrow morning. And we  
19 will have an instruction conference.

20 MR. STAINTHORP: Very good, Your Honor.

21 MR. SMOKOWICZ: Very good, Your Honor. Thank you.

22 THE COURT: Thank you.

23 \* \* \*

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF WISCONSIN  
3

4 I, HEIDI J. TRAPP, Official Court Reporter for the  
5 United States District Court, Eastern District of Wisconsin, do  
6 hereby certify that I reported the foregoing Transcript of  
7 Proceedings; that the same is true and correct as reflected by  
8 my original machine shorthand notes taken at said time and place  
9 before the Hon. Rudolph T. Randa.  
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Official Court Reporter  
United States District Court  
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14 Dated at Milwaukee, Wisconsin,  
15 this 20th day of November, 2015.  
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